

## Exhibit 2

In The Matter Of:

**CHARLIE THORNTON**  
v.  
**FEDEX GROUND PACKAGE SYSTEM**

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**CHARLIE THORNTON**  
**March 15, 2006**

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IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

CIVIL ACTION NO: 2:05-CV-00656-DRB

CHARLIE THORNTON,  
Plaintiff,  
vs.  
FEDEX GROUND PACKAGE SYSTEM, INC.,  
Defendant.

DEPOSITION  
OF  
CHARLIE THORNTON  
15TH DAY OF MARCH, 2006

TAKEN BEFORE: Gary N. Morgan  
Registered Professional  
Reporter and Notary Public

A P P E A R A N C E S

FOR THE PLAINTIFF:  
Mr. K. Anderson Nelms  
Attorney at Law  
Law Offices of Jay Lewis, LLC  
847 South McDonough Street  
P. O. Box 5059  
Montgomery, Alabama 36104

FOR THE DEFENDANT:

Messrs. Robert K. Spotswood and  
John. R. Parker, Jr.  
Attorneys at Law  
Law Offices of Robert K. Spotswood  
Suite 940  
2100 Third Avenue North  
Birmingham, Alabama 35203

OTHERS PRESENT:

Mr. Kent Gastineau

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Page 4

1 S T I P U L A T I O N

2 IT IS STIPULATED AND AGREED,

3 by and between the parties, through their  
4 respective counsel, that the deposition  
5 of CHARLIE THORNTON may be taken before  
6 Gary N. Morgan, Commissioner, Registered  
7 Professional Reporter and Notary Public,  
8 State at Large;

9 That the signature to and  
10 reading of the deposition by the witness  
11 is waived, the deposition to have the  
12 same force and effect as if full  
13 compliance had been had with all laws and  
14 rules of Court relating to the taking of  
15 depositions;

16 That it shall not be necessary  
17 for any objections to be made by counsel  
18 to any questions, except as to form or  
19 leading questions, and that counsel for  
20 the parties may make objections and  
21 assign grounds at the time of trial, or  
22 at the time said deposition is offered in  
23 evidence, or prior thereto.

1 I N D E X

2 P A G E :

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1 Parker, I represent FedEx Ground in  
2 connection with the lawsuit that you have  
3 filed against it. We're here today for  
4 the purpose of taking your deposition.  
5 Have you ever had a deposition taken  
6 before?

7        A. One other time.

8           Q. Okay. And, so, what's going  
9 to happen here, and I'm sure this is  
0 familiar with you since you've been  
1 deposed before, is that I'm going to ask  
2 questions, you're going to give me  
3 answers. It makes the process a lot  
4 easier if you'll take your time with me  
5 and I'll take my time with you, and  
6 specifically I mean let me finish my  
7 question before you give an answer. It's  
8 also very important for you to answer out  
9 loud with words rather than with a nod of  
0 the head or a huh-uh or a uh-huh because  
1 that's all subject to interpretation, so  
2 please speak up.

If at any time during the

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I, Gary N. Morgan, a  
Registered Professional Reporter of  
Birmingham, Alabama, and a Notary Public  
for the State of Alabama at Large, acting  
as Commissioner, certify that on this  
date, as provided by the Federal Rules of  
Civil Procedure of the United States  
District Court, and the foregoing  
stipulation of counsel, there came before  
me at 847 South McDounough Street,  
Montgomery, Alabama, on the 15th day of  
March, 2006, commencing at 9:33 a.m.,  
CHARLIE THORNTON, witness in the above  
cause, for oral examination, whereupon  
the following proceedings were had:

17           CHARLIE THORNTON,  
18 being first duly sworn, was examined and  
19 testified as follows:

EXAMINATION BY MR. SPROTTSWOOD:

22 Q. Mr. Thornton, my name is Bob  
23 Spotswood, and, together with J. R.

1 course of the day today you have any need  
2 for a break, just let us know that, and  
3 we'll do whatever you need to do or take  
4 a break. If at any time you don't  
5 understand any of my questions, it's okay  
6 for you to say you don't understand the  
7 question. I want you to understand what  
8 I'm asking you is the point.

If, in the course of the deposition, you think later after you've answered a question that you've got an additional answer you want to give, you want to clarify something that you said, it's okay to bring it up later. I'm trying to get a full story, as you'll see today, about why we're here and in this litigation, so I want you to feel free to, you know, if you've forgotten about something, to come along later and supplement what you said.

Are you on any medications of any kind today?

A. The only thing I take is

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Page 11

1 something for hypertension.

2 Q. And what would that be? I  
3 take some of those myself.

4 A. It's Uretic I think is the  
5 name of it.

6 Q. Okay.

7 A. It's a very -- it's a low  
8 blood pressure tablet.

9 Q. Okay. And I'm sitting here  
10 looking at you. You look perfectly lucid  
11 to me. You're not under the influence of  
12 any kind of drugs or alcohol or anything  
13 like that that would keep you from  
14 answering --

15 A. That's correct.

16 Q. -- properly and truthfully?  
17 And tell us your full name, please, sir.

18 A. Charlie Edward Thornton, Sr.

19 Q. Where do you live, Mr.  
20 Thornton?

21 A. 75 Pine Court, Millbrook,  
22 Alabama.

23 Q. What county is that located

1 Q. And what was your course of  
2 study at the George C. Wallace Community  
3 College?

4 A. Electronics.

5 Q. Are you married?

6 A. Yes, I am.

7 Q. What's your wife's name?

8 A. Debbie.

9 Q. How long have you been married  
10 to Debbie?

11 A. Eight years.

12 Q. Is she employed?

13 A. Yes, she is.

14 Q. Where does she work?

15 A. State Farm Insurance. She's  
16 an agent.

17 Q. What kind of insurance  
18 products does she sell?

19 A. Life, health, property and  
20 casualty, auto. I guess the whole gamut.

21 Q. And where is her office  
22 located?

23 A. It's on the northern bypass

Page 10

Page 12

1 in?

2 A. Elmore.

3 Q. What's your date of birth?

4 A. 2/7/56.

5 Q. What is your place of birth?

6 A. Phoenix, Arizona.

7 Q. How long have you lived in  
8 Alabama?

9 A. Since '64.

10 Q. Tell me your educational  
11 background.

12 A. High school, one year of  
13 college.

14 Q. Where did you go to college?

15 A. Isabella High School.

16 Q. Where is that located?

17 A. Chilton County.

18 Q. Where did you go to college?

19 A. George C. Wallace. That's in  
20 Selma, Alabama.

21 Q. That's the community college  
22 over there?

23 A. Yes, it is.

1 here in Montgomery. I don't know the  
2 exact address.

3 Q. How long has she been a State  
4 Farm agent?

5 A. With State Farm a year -- a  
6 little over a year.

7 Q. And before she was a State  
8 Farm agent, what did she do by way of  
9 employment?

10 A. She was in the insurance  
11 business.

12 Q. And who did she work for?

13 A. AIG, American General.

14 Q. Yes. What kind of insurance  
15 products did she sell for AIG?

16 A. Life and health.

17 Q. And how long had she worked  
18 for AIG before she moved over to State  
19 Farm?

20 A. I would say a year and a half  
21 or so.

22 Q. Okay. And what did she do  
23 for employment before AIG?

Page 13

1 A. She worked for Regions Bank.  
2 Q. What was her job with Regions?  
3 A. She worked in mortgage  
4 finance. I don't know what her title was  
5 in mortgage finance.  
6 Q. Did she sell mortgages?  
7 A. I could not tell you. I do  
8 not know.  
9 Q. Which location of Regions did  
10 she work at?  
11 A. Downtown, Montgomery.  
12 Q. All right. And how long did  
13 she work for Regions?  
14 A. 21 years.  
15 Q. So, did she retire from  
16 Regions then?  
17 A. Somewhat, yeah.  
18 Q. What were the circumstances of  
19 her leaving Regions?  
20 A. I had -- I had opened up a --  
21 a business, and she just -- she wanted a  
22 break from that, plus our first  
23 grandchild was born, and she wanted to

1 structure of it?  
2 A. It was a LLC.  
3 Q. And who had an interest in  
4 American Shield other than you? Your  
5 wife, did she have an ownership interest  
6 in it apart from, you know, you?  
7 A. No.  
8 Q. Okay. Did you have any other  
9 employees?  
10 A. Yes.  
11 Q. How many employees did you  
12 have?  
13 A. Approximately, 10 to 15.  
14 Q. When did you open the doors on  
15 American Shield?  
16 A. I don't actually recall.  
17 Q. Can you give me a year? From  
18 the sounds of it, it must have been  
19 like '90 -- 2002 maybe, if that coincides  
20 with your wife's departure from Regions?  
21 A. It may have -- 2002, 2000 --  
22 latter part of 2001.  
23 Q. Okay. And did you later sell

Page 14

1 spend time.  
2 Q. She basically resigned her  
3 job, I guess, at Regions, is that  
4 correct?  
5 A. Yeah, I would think so, yeah.  
6 Q. And what was the business that  
7 you had opened?  
8 A. It was a security business.  
9 Q. What kind of security services  
10 did you provide?  
11 A. Home -- well, residential and  
12 business.  
13 Q. What was the name of the  
14 company?  
15 A. It was American Shield.  
16 Q. Is that a sort of a franchise  
17 operation or --  
18 A. No, sir.  
19 Q. It was your own --  
20 A. Yes.  
21 Q. -- company? And American  
22 Shield, was it a partnership, a  
23 corporation, a LLC? What was the

Page 16

1 that business?  
2 A. No, we dissolved the business.  
3 Q. When did you dissolve the  
4 business?  
5 A. I do not recall the date of  
6 that.  
7 Q. Do you recall what year it  
8 was?  
9 A. No, I do not.  
10 Q. You don't know if it was  
11 in '04, '03 or --  
12 A. Not an accurate date, I surely  
13 do not.  
14 Q. Okay. What caused you to  
15 dissolve the American Shield business?  
16 A. It -- we had some problems  
17 within the business. It just wasn't  
18 profitable.  
19 Q. Can you be a little bit more  
20 specific about what caused its demise?  
21 A. Not really. There was some --  
22 some -- well, there were some situations  
23 that it -- it just -- as far as money, as

Page 17

1 far as the profitability of the business.  
2 Q. Right.  
3 A. It just did not -- it just was  
4 not profitable, you know, as far as the  
5 bottom line, and we just decided it would  
6 be more feasible economically to close  
7 the business.  
8 Q. Did you put it into  
9 bankruptcy?  
10 A. No, no.  
11 Q. Did you pay off all of your  
12 creditors?  
13 A. Yes, we did.  
14 Q. You've been married to Debbie  
15 for eight years?  
16 A. Yes.  
17 Q. Were you married prior to your  
18 marriage to Debbie?  
19 A. Yes.  
20 Q. How many times have you been  
21 married total?  
22 A. Twice.  
23 Q. What is your first wife's

Page 19

1 A. No.  
2 Q. Okay. And you have how many  
3 children?  
4 A. I have four biological, and I  
5 have two stepchildren.  
6 Q. And can you tell me the names  
7 and approximate ages of the four  
8 biological children?  
9 A. Charlie, Jr. is 27. I hope I  
10 get this right.  
11 Q. Oh, good. That's good. Do  
12 your best.  
13 A. Seth is 24. Andy is 18.  
14 Shelby is 14. My stepdaughter, Tammy,  
15 she's 32.  
16 Q. Yes.  
17 A. And my stepson is Justin.  
18 He's 23.  
19 Q. Where is Charlie living these  
20 days, Charlie, Jr.?  
21 A. Charlie lives in -- he lives  
22 in Chilton County.  
23 Q. What's he doing up there?

Page 18

1 name?  
2 A. Sue -- Sue.  
3 Q. And what is her current full  
4 name now?  
5 A. I do not know.  
6 Q. And what was her maiden name?  
7 A. Hammond.  
8 Q. H-A-M-M-O-N-D?  
9 A. Correct.  
10 Q. And do you know where she  
11 lives?  
12 A. Mississippi.  
13 Q. Do you know where in  
14 Mississippi?  
15 A. No, I do not.  
16 Q. Do you know if she works?  
17 A. I do not.  
18 Q. When were you divorced from  
19 Sue? What approximate year?  
20 A. '94.  
21 Q. You mentioned that you gave a  
22 deposition previously. Was that in  
23 connection with that divorce?

Page 20

1 A. He does construction.  
2 Q. And what about Seth, same  
3 question?  
4 A. Seth is in the military.  
5 Q. Where is he right now?  
6 A. Fort Hood, Texas.  
7 Q. And Andy, your 18-year-old?  
8 A. Andy is home with his mom.  
9 Q. In Mississippi?  
10 A. Yes.  
11 Q. And you don't know where that  
12 is?  
13 A. I don't recall the name of the  
14 town.  
15 Q. Do you talk to Andy every now  
16 and then?  
17 A. Yes, I do.  
18 Q. When was the last time you saw  
19 Andy?  
20 A. Two weeks ago.  
21 Q. I take it that was here and  
22 not Mississippi, then?  
23 A. That's correct.

Page 21

1 Q. And did he drive over here to  
2 see you?

3 A. Yes.

4 Q. What about Shelby, where does  
5 she live?

6 A. That's a he.

7 Q. I'm sorry.

8 A. He lives with his mother also.

9 Q. And you don't know the town  
10 where either of these two children live?

11 A. No, sir, I do not.

12 Q. Do you have a phone number for  
13 their residence where you would call  
14 them?

15 A. Yes, I do.

16 Q. What's that phone number?

17 A. I do not recall that number.

18 I don't have it memorized.

19 Q. Do you recall the area code?

20 A. I'm sorry? What was the  
21 question?

22 Q. Do you recall the area code  
23 where --

Page 21

Page 23

1 MR. NELMS: To help you out,  
2 that would also be Elmore and Autauga  
3 Counties. So, you're talking Autauga,  
4 Elmore, Montgomery and then everything  
5 east of 65 all the way down to the state  
6 line in Florida.

7 MR. SPOTSWOOD: Yes.

8 MR. NELMS: And then 85 all  
9 the way out to the Chattahoochee River,  
10 and then north of 85 all the way up to  
11 Tallapoosa.

12 Q. You've got a better  
13 understanding of the counties in the  
14 Middle District than I do.

15 MR. NELMS: Well, it's my  
16 district, though.

17 MR. SPOTSWOOD: I appreciate  
18 it.

19 A. I do not. I do not have any  
20 relatives.

21 MR. NELMS: Brothers, aunts,  
22 sisters, brothers.

23 A. I have no sisters, no

Page 22

Page 24

1 A. 601.

2 Q. Is it north Mississippi,  
3 central Mississippi, southern  
4 Mississippi?

5 A. It's in -- around the  
6 Hattiesburg area.

7 Q. But it's not in the city of  
8 Hattiesburg; it's just near Hattiesburg?

9 A. Right.

10 Q. Do you know where your kids go  
11 to high school?

12 A. I do not.

13 Q. Your case is pending here in  
14 the Middle District of Alabama which, if  
15 my understanding is correct, basically  
16 covers Montgomery County, places east of  
17 Montgomery County and east of 65 going  
18 south. My question to you is do you have  
19 any relatives -- I don't care if they are  
20 aunts or uncles or cousins or what have  
21 you -- living in Montgomery County or any  
22 of those other counties I just mentioned  
23 to you geographically?

1 brothers. I only have one living aunt on  
2 my dad's side. She lives in Chilton  
3 County, but I don't think that -- does  
4 it?

5 MR. NELMS: Yeah, Chilton  
6 County is part too.

7 A. All right. Well, I have one  
8 aunt.

9 Q. What's her name?

10 A. Beatrice Cagle.

11 Q. How do you spell that?

12 A. B-E-A-T-R-I-C-E.

13 Q. It's the Cagle part that I'm  
14 having trouble with.

15 A. Oh, C-A-G-L-E, I assume.

16 MR. NELMS: I'm one quarter  
17 Cagle.

18 A. All right.

19 MR. NELMS: That's how you  
20 spell it.

21 A. Thank you.

22 MR. NELMS: My maternal  
23 grandmother.

Page 25

1 A. Really.  
2 Q. How about your spouse, does  
3 Debbie have any relatives in these areas  
4 we've been talking about?  
5 A. No. Her relatives are in  
6 Tallahassee, Florida. Other than my  
7 step -- stepchildren.  
8 Q. Right. Right. And Justin,  
9 what is Justin's last name?  
10 A. Seithalil.  
11 Q. How do you spell that?  
12 A. I have not -- I -- let's see.  
13 Let me look.  
14 MR. NELMS: You already have a  
15 copy of his driver's license, right?  
16 MR. SPOTSWOOD: I think I do,  
17 yes.  
18 MR. PARKER: At least the  
19 front of the driver's license we do have.  
20 A. It's S-E-I-T-H-A-L-I-L.  
21 Q. And your 32-year-old, I wrote  
22 it down, but I'm having a hard time  
23 reading what I wrote down. What is --

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1 A. She's not working at this time  
2 because the -- her kids are small.  
3 Q. Okay.  
4 A. And she's home with them.  
5 Q. Right. And how about Justin,  
6 is he married?  
7 A. No.  
8 Q. What is Justin doing?  
9 A. He works in the State Farm  
10 office where my wife works.  
11 Q. Okay. Just out of curiosity,  
12 you know the State Farm offices, do they  
13 have a defined geographic area that they  
14 serve, or do they have an exclusive  
15 territory, or are they out there  
16 competing with each other, those various  
17 State Farm offices?  
18 A. I really -- I can't answer  
19 that. I do not know.  
20 Q. Okay.  
21 A. I don't know.  
22 Q. But she's on the bypass, you  
23 say?

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1 MR. PARKER: I didn't get it.  
2 Q. -- your 32-year-old's name?  
3 A. Lewis -- oh, first name?  
4 Q. Yeah.  
5 A. Tammy.  
6 Q. So, it's Tammy Lewis?  
7 A. Yes.  
8 Q. And what is Tammy -- is Tammy  
9 married?  
10 A. Yes, she is.  
11 Q. What's her husband's name?  
12 A. Steve.  
13 Q. And where do Steve and Tammy  
14 live?  
15 A. They live in Millbrook.  
16 Q. Okay. What do they do for  
17 employment up there?  
18 A. Steve is a fireman with the  
19 Montgomery Fire Department.  
20 Q. Yes.  
21 A. And Tammy is a pediatric  
22 nurse.  
23 Q. Does she work in Montgomery?

Page 28

1 A. She's on the northern bypass.  
2 The agent's name that owns it is Willie  
3 Durham. I do not know the address.  
4 Q. Okay. Thank you. Are you  
5 attending church at this time?  
6 A. Yes, I am.  
7 Q. And where do you attend  
8 church?  
9 A. Camellia Baptist Church.  
10 Q. Where is that located?  
11 A. In Prattville.  
12 Q. And what's the name of the  
13 pastor there?  
14 A. Glenn Brock.  
15 Q. What's your involvement there?  
16 A. As much as possible.  
17 Q. What do you do there?  
18 A. Well, I'm just a -- I'm a  
19 member there.  
20 Q. Right. But, obviously, based  
21 on your prior answer, you do other things  
22 and you contribute time, I take it, to  
23 other activities. That's what I'm trying

Page 29

1 to --

2 A. Sure. It's just according to  
3 what activities are within the church.  
4 I'm not a Sunday School teacher or  
5 anything like that.

6 Q. Do you spend time there during  
7 the week on various church-related  
8 things?

9 A. We do.

10 Q. How many hours a week would  
11 you spend at the church-related  
12 activities?

13 A. Well, I don't -- I really  
14 don't know how many hours per week.

15 Q. More than 10?

16 A. Probably at least 10 to 15.

17 Q. Are you involved in any other  
18 community activities outside of the  
19 church?

20 A. No, not really unless it's  
21 something to do with my -- my grandson's  
22 playing sports, you know, when that's  
23 in -- in session.

Page 30

1 Q. Right. Have you ever gone by  
2 any name other than Charlie Thornton?

3 A. No, sir.

4 Q. I want to quickly get a handle  
5 on what property and investments you own  
6 at the present time. Do you own your  
7 home?

8 A. Yes, I do.

9 Q. And you gave me the address of  
10 that, I think, if I remember correctly?

11 A. Yes, sir.

12 Q. And is your house subject to a  
13 mortgage at this time?

14 A. No, sir.

15 Q. All right. And could you  
16 describe your home for me?

17 A. I really don't understand the  
18 question.

19 Q. I mean, is it a three bedroom,  
20 split level, six bedroom, whatever?

21 A. Okay. It's a four-bedroom on  
22 a slab.

23 Q. Okay.

Page 29

Page 31

1 A. Single level.

2 Q. And it's a -- it's not a  
3 manufactured home?

4 A. No, sir.

5 Q. It's brick and mortar?

6 A. Right.

7 Q. Do you have any estimate of  
8 its present value?

9 A. No, sir, I do not, no.

10 Q. I'm not familiar with the  
11 street address. Where are you located?  
12 Are you in Wetumpka, are you --

13 A. No, sir. We're in the city of  
14 Millbrook.

15 Q. Okay. And how long have you  
16 owned your home there? Actually how long  
17 have you lived there is what I meant to  
18 ask?

19 A. I've been there eight years.

20 Q. Do you own any rental  
21 properties of any kind?

22 A. I own my father's home that  
23 was deeded over to me at his death.

Page 30

Page 32

1 Q. Where is that located?

2 A. That's in Chilton County.

3 Q. And are you the only owner?

4 A. Yes, sir.

5 Q. Do you have an address for  
6 that?

7 A. 2325 County Road 359,  
8 Maplesville.

9 Q. And what does that property  
10 consist of?

11 A. A home and acreage.

12 Q. How many acres?

13 A. Total is seven -- seven acres  
14 around about.

15 Q. And what's the size of the  
16 home?

17 A. I do not know the square  
18 footage.

19 Q. Give me bedrooms, just a rough  
20 estimate.

21 A. It's a four-bedroom.

22 Q. Is it rented at the moment?

23 A. It is leased with an option to

Page 33

1 buy.

2 Q. At what price?

3 A. She's making the mortgage  
4 payments on it. Whatever the mortgage  
5 is, no extra.

6 Q. Do you remember roughly what  
7 that is?

8 A. Four -- 458 a month.

9 Q. And you don't remember,  
10 though, what the purchase price on the  
11 seven acres and the house would be?

12 A. I don't understand what you  
13 mean by purchase price.

14 Q. Well, if she's got the option  
15 to buy --

16 A. It will be the -- whatever the  
17 amount is owed.

18 Q. That's what I'm asking you,  
19 what's the amount owed?

20 A. Oh, okay. Oh, the amount  
21 owed, 50 -- 57, 58 thousand.

22 Q. And when did you inherit the  
23 property?

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1 got ahead of myself here. Do you have  
2 any interest at present in any business  
3 of any kind?

4 A. No, sir.

5 Q. Are you receiving any  
6 annuities or any payments on annuities or  
7 pension or a disability policy or  
8 anything like that?

9 A. No, sir.

10 Q. You mentioned earlier that you  
11 had been deposed once before. Can you  
12 tell me what that was in connection with?

13 A. It had to do with a -- with a  
14 friend -- I don't even really recall.  
15 There was a friend involved in selling a  
16 security system to a homeowner, and I was  
17 present when the transaction took place.  
18 And unknowing to the individual, this  
19 individual was under contract with  
20 another company, and he did not disclose  
21 that information to my friend. And  
22 they -- when they called me in, they just  
23 wanted to know how the transaction went

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1 A. At the time of my father's  
2 death.

3 Q. Right. Which would have been  
4 when?

5 A. Two years -- well, Daddy  
6 passed away in June will be two years,  
7 this coming June.

8 Q. Okay. June of '04.

9 MR. NELMS: Is that correct,  
10 he died in June of '04?

11 A. Yeah, I think that's pretty  
12 accurate.

13 Q. Do you own any other real  
14 estate?

15 A. No.

16 Q. Do you have any other -- apart  
17 from your property interests that you've  
18 described, do you have a portfolio of  
19 stocks or bonds, a retirement fund or  
20 anything like that?

21 A. No.

22 Q. Apart from this case, have you  
23 been involved in any -- let me stop. I

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1 and what I observed.

2 Q. So, you were just a witness to  
3 this dispute, I guess?

4 A. Yes, sir, I guess.

5 Q. And what was the friend's  
6 name?

7 A. David Murabito.

8 Q. How do I spell?

9 A. M-U-R-A-B-I-T-O.

10 Q. And do you know -- remember  
11 the name of the customer in question?

12 A. No, sir, I don't.

13 Q. But had David been personally  
14 sued in connection with the transaction?

15 A. I do not know.

16 Q. And why were you with him in  
17 connection with the installation? What  
18 brought you there?

19 A. Well, it wasn't the  
20 installation. It was the -- the sale of  
21 the -- of the equipment. I just happened  
22 to be with him that day, and we -- it --  
23 he had an appointment to go to the home,

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1 and I went with him to the home.

2 Q. Was this at a time when you  
3 had your own --

4 A. No, sir.

5 Q. -- company we talked about?

6 When did this all take place?

7 A. I do not recall.

8 Q. Ancient history, five years  
9 ago, ten years ago?

10 A. It's been probably four --

11 Q. Okay.

12 A. -- years or more.

13 Q. Have you ever been named as a  
14 defendant in a lawsuit?

15 A. No.

16 Q. Have you ever sued anybody  
17 other than FedEx in this case? In  
18 other -- you can forget about your  
19 divorce proceeding.

20 A. Right.

21 Q. I know that was a legal  
22 proceeding.

23 A. I don't understand what you

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1 Q. What was the nature of the  
2 dispute there?

3 A. I had a back injury, and I  
4 had -- it had to do with my workmen's  
5 comp benefits.

6 Q. Did you --

7 A. And --

8 Q. Go ahead.

9 A. Getting disability on my  
10 workmen's comp -- or, you know, to  
11 determine the amount of workmen's comp.

12 Q. Do you remember whether or not  
13 you did get some sort of a permanent,  
14 partial disability rating or finding in  
15 connection with that?

16 A. I -- I did get a percentage.  
17 I don't even recall what that percentage  
18 actually was. I mean, it -- you know,  
19 what they did -- I think it's just --  
20 just the way that the system is. I mean,  
21 they did award a portion of disability.

22 Q. Okay. Do you remember or can  
23 you recall what the size of the check was

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1 mean by sued.

2 Q. What you did here, you filed a  
3 piece of paper in court and claimed  
4 compensation from somebody for whatever  
5 it is you think they did that caused you  
6 harm or injury.

7 A. The only other -- the only  
8 other case I had was a workmen's comp  
9 case, and that's been years ago. I don't  
10 know if that's suing.

11 Q. Yes.

12 A. But --

13 Q. Who was the employer involved  
14 in that case?

15 A. It was Brockway Glass Company.

16 Q. And where were they located?

17 A. Here in Montgomery.

18 Q. And do you remember  
19 approximately when that happened?

20 A. Approximately, not  
21 accurately --

22 Q. Yes.

23 A. -- '79.

1 that you received or if you received just  
2 a series of checks over a period of time?

3 A. Well, I received workmen's  
4 comp checks --

5 Q. For a while?

6 A. -- when I was out of work.

7 Q. Right.

8 A. And then I think the  
9 settlement -- I don't recall the exact  
10 amount --

11 Q. Okay.

12 A. -- of what the check was.

13 Q. Can you give me a ballpark?

14 A. To be truthful --

15 Q. Yes.

16 A. -- I really don't -- I really  
17 don't remember.

18 Q. Okay.

19 A. I really do not remember.

20 Q. Any other legal proceedings of  
21 any kind that you can recall being  
22 involved with?

23 A. No, sir.

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1       Q. And you've never sought any  
2 kind of a disability --

3       A. No, sir.

4       Q. -- from any entity, state or  
5 federal, Social Security?

6       A. No, sir.

7       Q. How's your health right now?

8       A. Other than the hypertension, I  
9 feel like it's pretty good.

10      Q. All right. Do you feel like  
11 the hypertension is under control with  
12 the drugs you're taking?

13      A. Well, not with just drugs,  
14 but, you know -- yes, I feel like it's  
15 pretty much under control.

16      Q. Do you have a cardiologist who  
17 you see every six months or so?

18      A. No, I do not.

19      Q. Who prescribes your medication  
20 for hypertension?

21      A. Dr. Marla Wool.

22      Q. How do you spell the last  
23 name?

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1       A. W-O-O-L.

2       Q. And where is Marla located?

3       A. She is located in Millbrook.

4       Q. And she's just a regular care  
5 physician?

6       A. Yes.

7       Q. Apart from Marla --

8       (Off-the-record discussion.)

9       Q. (BY MR. SPOTSWOOD:) Apart  
10 from Marla, are you under the care of any  
11 other medical professional, whether it's  
12 a psychologist, a psychiatrist --

13      A. No.

14      Q. -- anybody else?

15      A. No, sir.

16       (Off-the-record discussion.)

17       Q. (BY MR. SPOTSWOOD:) Yeah, let  
18 me just tell you where I'm going here to  
19 kind of help bring things along, Mr.  
20 Thornton. What I want to do now is move  
21 to your employment history really going  
22 both from basically the present backwards  
23 to find out where you've actually worked

1 basically over about a five-year period.  
2 I'm going to do that, I hope, with the  
3 help of the tax return information that  
4 you've given me, and we have some  
5 exhibits here on that, so that's where  
6 we're going to start. And I'd like to  
7 start with -- with 2006, and, of course,  
8 I know we don't have any tax return  
9 information so far, but where are you  
10 working right now?

11      A. UniFirst Corporation.

12      Q. That's U-N-I-F-I-R-S-T?

13      A. That's correct.

14      Q. And where is it located?

15      A. Branch office is in Millbrook.

16      Q. And what is the nature of the  
17 business?

18      A. Uniform supply.

19      Q. What is your job with  
20 Uniform -- UniFirst, rather?

21      A. Territory manager.

22      Q. And tell me what you do as a  
23 territory manager.

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1       A. I manage the territory that --  
2 protect a territory and, also, I sell in  
3 that territory.

4       Q. Do you have drivers and others  
5 that report to you as the manager?

6       A. No.

7       Q. Well, how -- what do you do on  
8 a regular basis is what I'm trying to get  
9 to, what are your regular job functions?

10      A. It's customer service  
11 basically. I have customers within that  
12 territory that I just maintain, manage,  
13 make sure everything is going smoothly  
14 with their deliveries and stuff like  
15 that, and then I report directly to a  
16 branch manager.

17      Q. And, so, there is somebody  
18 riding around in a truck that picks up  
19 and delivers uniforms --

20      A. Oh, sure.

21      Q. -- to various entities, and  
22 that's really the nature of the business,  
23 correct?

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1       A. Yes.  
2       Q. So, you are making sure that  
3       the service is good and that they don't  
4       have any complaints and that, you know,  
5       they are paying their bills and you're  
6       doing what you are supposed to be doing?  
7       A. My main function is selling.  
8       Q. And, so, how do you go about  
9       doing that? Are you soliciting people,  
10      cold calling them?  
11      A. Several different ways.  
12      Q. Okay. Well, tell me what they  
13      are.  
14      A. I do cold calling, solicit,  
15      referrals.  
16      Q. And are you paid on a  
17      commission basis?  
18      A. Commission plus salary.  
19      Q. And what is -- tell me the  
20      exact structure of your compensation.  
21      A. What do you mean by that?  
22      Q. What -- well, let's begin with  
23      this: When did you start working at

1       A. Sure. Yes.  
2       Q. Can you tell me what your  
3       compensation has averaged since you began  
4       working eight weeks ago on a weekly  
5       basis?  
6       A. Six hundred a week. I've just  
7       got into the commission phase of it.  
8       Q. So, you're just now working --  
9       A. Basically in training.  
10      Getting out of training. Not actually  
11      getting out of training. I've got into  
12      the selling mode. We were in a training  
13      mode.  
14      Q. So, beginning what, in April  
15      you should start seeing some commission  
16      checks, is that what you're saying, maybe  
17      next month?  
18      A. Possibly, yeah.  
19      Q. Maybe this month too?  
20      A. Oh, I'm not -- no, it will not  
21      be this month.  
22      Q. Who is your immediate  
23      supervisor there?

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1       UniFirst?  
2       A. It was approximately eight  
3       weeks ago.  
4       Q. What is your base salary?  
5       A. My base salary is six -- six  
6       hundred a week.  
7       Q. And what is your -- how is  
8       your commission computed?  
9       A. It's computed several  
10      different ways. There's no set way of  
11      computing commissions. It's according --  
12      it's based on what you sell, the price  
13      you sell it for, length of time for the  
14      agreement.  
15      Q. But you have an agreement --  
16      you have it written down what your  
17      commission arrangement is, I take it?  
18      A. I have a structure according  
19      to the -- whatever your sale is.  
20      Q. Okay. But you can figure out,  
21      I take it, when you get a paycheck  
22      whether or not your paycheck has been  
23      properly computed?

1       A. Acting branch manager is Dan  
2       Cohen.  
3       Q. Where is Mr. Cohen located?  
4       A. Millbrook.  
5       Q. Let me ask you to have a look  
6       at Defendant's Exhibit A.  
7       (Whereupon, Defendant's  
8       Exhibit A was marked for  
9       identification.)  
10      MR. NELMS: Have you got a  
11      copy for me? Or do you want me to get  
12      my --  
13      MR. SPOTSWOOD: Yeah. Let him  
14      look at that, if you don't mind.  
15      Q. (BY MR. SPOTSWOOD:) What I  
16      want to do, first of all, is make sure I  
17      have everybody you worked for in 2005,  
18      and I show that you worked at True Green  
19      Limited is one of the entities reflected  
20      on your W-2 for 2005, and then I've  
21      got -- frankly, I've got another one here  
22      that I can't read. This is -- this is  
23      reflecting wages of \$720. Do you know

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1 who that was? I can't read this. It  
2 shows an Overland Park, Kansas address.  
3 Do you remember who that was?

4 A. No, sir, I don't.

5 Q. And, then, I show a THD At  
6 Home Services.

7 A. Yes.

8 Q. And then I show some  
9 compensation from FedEx while you were in  
10 the training mode. All right?

11 A. Yes.

12 Q. Apart from the income  
13 reflected on these four W-2 forms, did  
14 you have any other income in 2005?

15 A. No, sir.

16 Q. Now, let's start with --

17 A. Okay. I know who this is.

18 Q. Okay. Who is that?

19 A. That was with DHL.

20 Q. DHL?

21 A. DHL.

22 Q. A delivery service?

23 A. Yes. You said 2005.

1 company.

2 Q. Did you quit that job, or were  
3 you terminated from it, what happened?

4 A. I turned in my -- a notice.

5 Q. Where was their office  
6 located?

7 A. Here in Montgomery.

8 Q. Can you help me out a little  
9 bit more than that?

10 A. It's in the north -- it's off  
11 the northern bypass.

12 Q. It would be listed in the  
13 Yellow Pages as True Green Limited?

14 A. No, sir. It's True Green  
15 ChemLawn.

16 Q. Okay. And what was your next  
17 employer in 2005 other than your training  
18 time at FedEx?

19 A. That would have been with DHL.

20 Q. All right. Which location for  
21 DHL did you --

22 A. It's here in Montgomery.

23 Q. Do you recall roughly where

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1 Q. Right.

2 A. Right?

3 Q. Yes, sir. Let's talk about --  
4 why don't we do these in order. Which  
5 one were you first employed by in 2005?

6 A. That would have been True  
7 Green.

8 Q. All right. What did you do  
9 for True Green?

10 A. I was a sales rep.

11 Q. What was the nature of their  
12 business?

13 A. They do fertilizations,  
14 spraying of lawns, insect control.

15 Q. And who was your supervisor  
16 there?

17 A. I do not even recall his name.  
18 I don't know.

19 Q. How long did you work there?

20 A. It was a very short period of  
21 time. That was before I -- well,  
22 actually it was a very short period of  
23 time, and then I went on with the FedEx

1 the office is located?

2 A. It's off the northern bypass  
3 also. I don't -- I really don't recall  
4 the address.

5 Q. What kind of facility was it?

6 A. It's a terminal, delivery  
7 terminal.

8 Q. Who was your supervisor there?

9 A. I do not recall his name  
either.

10 Q. Was it a -- can you give me a  
11 description of him?

12 A. A description of the  
13 individual?

14 Q. Yes. You know, skin color,  
15 hair color.

16 A. He was a black guy.

17 Q. Approximate age?

18 A. Oh, I have no idea. 20s, 30s.

19 Q. All right. And what did you  
20 do for DHL?

21 A. I delivered packages.

22 Q. Were you a -- did you have a

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1 particular route?  
2 A. Yes, I did.  
3 Q. Where was your route?  
4 A. Elmore County.  
5 Q. Were you an employee or an  
6 independent contractor?  
7 A. I was an employee.  
8 Q. How long did you work for DHL?  
9 A. I don't recall that length of  
10 time.  
11 Q. A couple of weeks, a month?  
12 A. It was probably around three  
13 weeks, looking at the pay.  
14 Q. And do you have any  
15 recollection of what period of time it  
16 was, whether it was in the summer or was  
17 it in --  
18 A. It was in the summer.  
19 Q. And what happened with respect  
20 to that job? Why aren't you still  
21 working at DHL?  
22 A. Well, at the time I was also  
23 trying to get on with -- At-Home Services

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1 is actually Home Depot, but it was  
2 working 60, 70 hours a week, and the pay  
3 was -- it was nothing. \$400 a week at 60  
4 to 70 hours a week. No overtime.  
5 Q. What was your hourly rate?  
6 A. I do not even know because  
7 they -- they started us -- started me at  
8 400. They started everybody else at 375.  
9 The only reason why they started me at  
10 four hundred was because I had went  
11 through the training at FedEx.

12 Q. And you were working a minimum  
13 of 60 hours a week without any additional  
14 compensation?

15 A. That's exactly right.

16 Q. You were a salaried employee,  
17 is that what you're saying?

18 A. That's exactly right.

19 MR. NELMS: Off the record.

20 (Off-the-record discussion.)

21 Q. (BY MR. SPOTSWOOD:) So, in  
22 any event, Mr. Thornton, you quit the job  
23 because you didn't like the working

1 conditions and the compensation package  
2 basically?  
3 A. And I had the opportunity to  
4 interview with Home Depot. Of course,  
5 the pay was -- it was tough, from seven  
6 to seven at night and every weekend, you  
7 know.  
8 Q. You were working on Saturdays  
9 and Sundays?  
10 A. Not Sunday.  
11 Q. But you were working Saturday?  
12 A. Yes.  
13 Q. How many hours on Saturday?  
14 A. Well, that would vary because  
15 you had packages to deliver, and you had  
16 to complete your -- your route for the  
17 day. And during the week it was not like  
18 from seven to seven. You worked until  
19 you completed your -- your route for that  
20 day.  
21 Q. And you don't remember your  
22 supervisor's name over there?  
23 A. Honestly, no.

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1 Q. Okay. And so, you resigned  
2 that job?  
3 A. Yes.  
4 Q. And, then, did you have a job  
5 at the time you resigned with Home Depot?  
6 A. What was the question again?  
7 Q. At the time you resigned from  
8 DHL, did you have a job with anybody  
9 else?  
10 A. I -- yes, I had the job with  
11 Home Depot.  
12 Q. And that's, I think, listed on  
13 the W-2 form, Exhibit A, as THD At-Home  
14 Services?  
15 A. Right, the Home Depot At-Home  
16 Services.  
17 Q. All right. And what was your  
18 job there?  
19 A. Sales, selling roofing, siding  
20 and window products to homeowners.  
21 Q. What location did you work out  
22 of?  
23 A. Montgomery.

14 (Pages 53 to 56)

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1       Q. Were you actually calling on  
2 people at their homes, or was this within  
3 a Home Depot store?

4       A. No, this was actually running  
5 appointments that were set up through the  
6 store. I didn't have anything to do with  
7 the store. Appointments were set up,  
8 sent over to us by e-mail, and then we  
9 went to the home, met with the homeowner.

10      Q. And you would then what,  
11 decide what they needed and sign them up  
12 on a contract to have the roofing, siding  
13 or window products purchased and  
14 installed?

15      A. That's correct.

16      Q. And how were you compensated  
17 for that?

18      A. Strictly commission.

19      Q. What was your commission rate?

20      A. It varied with the product.

21 From eight to ten percent.

22      Q. We showed that you received,  
23 according to Exhibit A, your -- your W-2

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1 earnings \$2689?

2       A. Right.

3       Q. How long did you work there?

4       A. I worked with Home Depot up  
5 until the time I took the job with  
6 UniFirst.

7       Q. So, when did you begin with  
8 Home Depot, sometime in the summer?

9       A. Yes.

10      Q. How many hours a week were you  
11 working at the Home Depot?

12      A. That would vary, and that was  
13 one of the issues with Home Depot. Of  
14 course, you had appointments set up  
15 daily. Sometimes you may have one  
16 appointment. You may have two. Some  
17 weeks you only had maybe two appointments  
18 in a whole week. That was the -- that  
19 was the big issue that I had with those  
20 guys. But as far as hours, an  
21 appointment would normally take two,  
22 possibly three hours, but the  
23 appointments were so sporadic there's no

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1 way to say, well, I had two appointments  
2 each day.

3       Q. Well, it seems like -- and  
4 your answer may have just explained it.  
5 It seems a very modest amount of  
6 compensation running over a three-month  
7 period of time?

8       A. Well, exactly right. As far  
9 as being competitive in the market, Home  
10 Depot in this area was not very  
11 competitive at all. When it comes to the  
12 roofing products, in this area there's --  
13 to give you an example, there's a hundred  
14 and twenty roofing companies in the city  
15 of Montgomery, and Home Depot, normally  
16 their prices were twice as much as Joe's  
17 Roofing out here, to give you an example.  
18 So, they were not competitive at all.  
19 And -- but I mean, you know, there was a  
20 job to be done, and you were to run your  
21 appointments. There was no compensation  
22 for mileage. It was straight commission.

23       Q. During this period -- it

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1 basically sounds like you were working  
2 part-time. During this period were you  
3 working anywhere else?

4       A. No.

5       Q. Were you aware when you  
6 accepted the position at Home Depot and  
7 resigned from your job at DHL that there  
8 was going to be no guarantee of any  
9 particular volume of appointments in any  
10 particular week?

11      A. I knew that there would be  
12 appointments, but I did not know how many  
13 appointments.

14      Q. When did you start looking for  
15 something else, other than Home Depot?

16      A. I was continually looking for  
17 something with a better income from the  
18 get-go.

19      Q. I think -- where is that  
20 printout?

21      MR. PARKER: Look at the  
22 exhibit list. It's Exhibit G.

23      MR. NELMS: While we're off

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1 the record.

2 MR. SPOTSWOOD: Yeah.  
3 (Off-the-record discussion.)  
4 (Said deposition was in recess  
5 at 10:32 a.m. until 10:38  
6 a.m., after which the  
7 following occurred:)

8 Q. (BY MR. SPOTSWOOD:) Have a  
9 look at Exhibit G from the stack over  
10 there.

11 (Whereupon, Defendant's  
12 Exhibit G was marked for  
13 identification.)

14 Q. This was the document I think  
15 that was produced to us in response to  
16 our request for what other jobs you were  
17 looking for during this period of time,  
18 and what I want to know is what exactly  
19 did you make application for from this  
20 list that's shown here on Defendant's  
21 Exhibit G?

22 A. Oh, there's -- there's no  
23 telling. There's no way I can tell you

1 Q. Yes.

2 A. I never realized that I would  
3 need this until I got the information  
4 from Andy, and that's when I went on and  
5 tried to catch it and print it off -- off  
6 the Internet.

7 Q. And, so, what you're saying,  
8 if I look down on the bottom here to the  
9 location on the Internet, it says, among  
10 other things, careerbuilder.com, job  
11 seeker jobs, my saved jobs. So, on  
12 jobs -- on this careerbuilder.com, did  
13 you have a list of saved jobs that you  
14 were trying to print this from?

15 A. That -- this is the saved jobs  
16 list.

17 Q. Okay.

18 A. The ones that I applied to.

19 Q. And are you saying -- it says  
20 1-18 of 18, so are -- am I missing  
21 something here? Is this just page one of  
22 18 pages worth of jobs that you  
23 actually --

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1 that. There were several I made  
2 application for. Everything that I  
3 clicked on on this right here I made  
4 application. I sent a resume to.

5 Q. But you're not saying you --  
6 you -- I mean, what we have here is a  
7 website that says careerbuilder.com?

8 A. Exactly right.

9 Q. And it's got a bunch of job  
10 titles here, and everything from sales  
11 manager to field service representative  
12 to driver, there are 18 pages, according  
13 to this thing, and at least on this  
14 particular one, this is 1-18 of 18. And  
15 I guess what I'm asking you is I assume  
16 you didn't apply for all of these jobs.  
17 Do you know what you applied for?

18 A. Yes, I did. I sent resumes to  
19 all of these jobs. Those are the ones  
20 that were -- it showed that I applied.  
21 As a matter of fact, there's more than  
22 that because if you'll see at the top, it  
23 says deleted after two months.

1 A. That's one of 18 of 18.

2 Q. Oh, I see, of the actual jobs  
3 listed above. All right.

4 A. This is all that I could pull  
5 off, and then if you go to -- on the back  
6 page there's one monster.com. Those are  
7 the ones there that I sent resumes to.  
8 But there were several, several more  
9 because I -- like I say, it deleted them  
10 off after two months.

11 Q. So, you applied -- let's just  
12 look over here on the last -- the second  
13 to the last page, you applied for a  
14 restaurant manager job?

15 A. I surely did.

16 Q. And you applied as a  
17 collector?

18 A. Yes.

19 Q. You applied as a benefits  
20 recruiter?

21 A. Yes.

22 Q. Had you ever worked in the  
23 restaurant business?

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1       A. No. But I felt like I had  
2 management experience.

3       Q. And can you tell us what  
4 companies you were making applications  
5 for? For example, on 1/21/2006, it says  
6 managers and assistant managers. Do you  
7 remember who that was?

8       A. No, I do not.

9       Q. It says apply online, question  
10 mark. What does that mean?

11      A. I have no idea. That's their  
12 website. That's -- I didn't -- these  
13 are -- but I know this: These are the  
14 ones that I applied to.

15      Q. Okay. But you were not able  
16 to, when you printed this out, to also  
17 print out what job it was; you couldn't  
18 click on the job and find out what job it  
19 was, who you were actually applying to?  
20 Surely there's some more detail here.

21      A. I knew I had to have a list of  
22 where I had applied.

23      Q. Yes.

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1       Exhibit B the tax return you and your  
2 wife filed for the tax year 2004 with the  
3 federal government?

4       A. Yes.

5       Q. And does it accurately reflect  
6 all of the income that you and she  
7 received that year?

8       A. Yes.

9       Q. It reflects that you received  
10 some \$28,358 in wages from American  
11 General Life and Accident Insurance  
12 Company, on page --

13      A. Correct.

14      Q. -- two. What were you doing  
15 for American General?

16      A. I was an agent.

17      Q. What kind of products were you  
18 selling?

19      A. Life and health.

20      Q. And how long did you have that  
21 job?

22      A. It was 14 months.

23      Q. And your wife had a similar

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1       A. This is what I went to and  
2 printed off.

3       Q. Okay.

4       A. Whether I could have went in  
5 and printed off each, I don't know if I  
6 could have done that or not.

7       Q. All right. I want to go to  
8 your 2004 tax return, which, along with  
9 the W-2 forms, is marked as Exhibit B.

10      (Whereupon, Defendant's

11      Exhibit B was marked for  
12 identification.)

13      A. Can I ask you a question  
14 outside?

15      MR. SPOTSWOOD: Sure. Go  
16 ahead.

17      A. If you don't mind, I'd  
18 appreciate it.

19      (Said deposition was in recess  
20 at 10:44 a.m. until 10:48

21 a.m., after which the

22 following occurred:)

23      Q. (BY MR. SPOTSWOOD:) Is

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1 level of income from the same company.  
2 What was she doing?

3       A. She was an agent.

4       Q. And where was your office  
5 located?

6       A. In Montgomery.

7       Q. Did you guys work out of your  
8 home, or were you working from an office?

9       A. No, we worked out of an  
10 office.

11      Q. Do you remember what the  
12 address was of that office?

13      A. No, sir. It was on the  
14 Atlanta Highway.

15      Q. So, if I'm not mistaken here,  
16 from the looks of things, you worked all  
17 of 2004 for American General?

18      A. Yes.

19      Q. And why did you -- when did  
20 you terminate your employment at American  
21 General?

22      A. It would have been December of  
23 2004.

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1       Q. And why did you decide to  
2 leave that job?

3       A. The actual reason was because  
4 of chargebacks, people dropping their  
5 insurance and them charging me back for  
6 the commissions that they had already  
7 paid, and that was -- that's the reason.

8       Q. If I understand the way that  
9 works, and please correct me if I'm  
10 wrong, the chargeback, the company had a  
11 policy that allowed them to come back and  
12 deduct from your other commission checks  
13 that you were earning certain commissions  
14 that you had already been credited when  
15 people canceled a policy within a period  
16 after the sale?

17      A. That's correct.

18      Q. And that was a policy that you  
19 didn't care for and didn't think was  
20 appropriate?

21      A. I don't understand your  
22 question.

23      Q. What caused you -- what was

1       A. Right.

2       Q. And what were you --

3       A. I was still a licensed agent  
4 -- agent at the time.

5       Q. And what did you then look  
6 for?

7       A. I went to work with True  
8 Green. As a matter of fact, they lost  
9 several agents at the end of 2004 because  
10 of the same problem.

11      Q. Who owned the agency where you  
12 worked?

13      A. It was company owned.

14      Q. Who was your immediate report,  
15 direct supervisor?

16      A. Lee Crawford.

17      Q. Is he still there, as far as  
18 you know?

19      A. I do -- I don't know. I  
20 really don't know. I haven't -- I don't  
21 know.

22      Q. Did your wife, Deborah, also  
23 terminate her employment there?

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1 the problem you had with that policy?

2       A. I didn't have a -- well, it --  
3 you're talking about the company policy.  
4 Okay. When you said policy, I'm sorry, I  
5 thought you were talking about the  
6 insurance policy.

7       It was the amount that hit.  
8 It had actually -- over a short period of  
9 time going into the latter months of  
10 2004, there was so much business that  
11 dropped off the books that my pool that I  
12 drew my income from was just about  
13 nothing, so my income had dropped  
14 tremendously.

15      Q. And that was because there was  
16 poor retention, is that the terminology?

17      A. A very poor retention not --  
18 throughout the company, business  
19 retention.

20      Q. So, you thought that was not a  
21 good economic deal for you and you quit?

22      A. It was not, no.

23      Q. And looked for something else?

1       A. Yes, she did. Not at the same  
2 time.

3       Q. It looks like she also worked  
4 at least for a period of time with  
5 Liberty National. What was she doing  
6 there?

7       A. She was an agent.

8       Q. Was that before or after her  
9 time with American General?

10      A. That was before. As a matter  
11 of fact, she took the job -- I was  
12 offered the job at State Farm, but at the  
13 time I was with -- going through FedEx,  
14 and I declined the job and recommended  
15 her -- her the job with State Farm.

16      Q. And she took that job?

17      A. And she took that job.

18      Q. Let's have a look at  
19 Defendant's Exhibit C, which is, I  
20 believe, your tax return for 2003.  
21 (Whereupon, Defendant's  
22 Exhibit C was marked for  
23 identification.)

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1       Q. Let me ask you to confirm that  
2 Exhibit C is your federal income tax  
3 return for the calendar year 2003 plus  
4 the W-2 forms reflecting income you and  
5 your wife received that year?

6       A. Yes, sir.

7       Q. It looks to me from this tax  
8 return that you and your wife reported a  
9 total of \$25,884 in wages and salaries  
10 for that year, is that correct?

11      A. Yes, sir.

12      Q. And is that -- is that, in  
13 fact, the total income that you and she  
14 received for that year?

15      A. Yes, sir.

16      Q. I may be missing something  
17 because it appears that I do not have W-2  
18 forms that add up to all that much money.

19      MR. PARKER: I think he may  
20 have had self-employment income.

21      Q. Is that correct? Did you have  
22 some self-employment income this year,  
23 2003?

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1       A. No.

2       MR. NELMS: I don't know.

3       A. I mean --

4       Q. Oh, I see. Okay. Let's flip  
5 over to salary and wages report which  
6 is -- which is the -- it looks to me like  
7 it's about -- oh, I don't know. I didn't  
8 number these pages. I'll count them. If  
9 I did that correctly, it's on page 19 of  
10 this exhibit.

11      A. Okay. That's where we're at.

12      Q. Yeah. It looks like we have  
13 federal wages from Liberty National Life  
14 of \$16,713. Whose wages were those, your  
15 wife's or yours?

16      A. Oh, I -- I don't know. It's  
17 not listed on there which one was which.  
18 I have no idea.

19      Q. Does anybody know what T  
20 hyphen S means at the top of that form?

21      MR. NELMS: I was thinking  
22 salary or tips or something like that,  
23 but I -- I looked down there and there

1       was T's next to them. And I said, well,  
2 that's not right. They didn't get tips.

3 Taxpayer, maybe, I don't know, spouse --

4       Q. That's what I thought it might  
5 be, spouse and then taxpayer. Did your  
6 wife work that year at J. B. Hunt --

7       A. No.

8       Q. -- or American General Life?

9       A. No, that was me.

10      Q. I think that's what that  
11 probably means then.

12      Would it be your recollection  
13 that in 2003 your wife did, in fact, earn  
14 the majority of the income from Liberty  
15 National, that she worked there a lot  
16 longer than you did?

17      A. She -- yes, she did work there  
18 longer than I.

19      Q. Okay. So, based on that -- I  
20 mean, this indicates that you received  
21 wages from J. B. Hunt Transport of \$1800,  
22 wages of \$3900 from American General Life  
23 and wages of \$3471 from Liberty National?

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1       A. Yes.

2       Q. Would that all suggest to you  
3 that it's your wife who earned the  
4 \$16,713 from Liberty National?

5       A. All I can say is that she was  
6 there longer than I at Liberty National.

7       Q. Okay.

8       A. I mean --

9       Q. I think the form actually is  
10 self-explanatory here. If you note below  
11 those figures I just gave you --

12      A. Right.

13      Q. -- it says taxpayer \$9,171;  
14 spouse, \$16,713, for a total of \$25,884,  
15 and you are listed as the taxpayer here  
16 on the second line, if joint return, SP  
17 first name and initial, which is your  
18 spouse. So, does that clarify things?

19      A. Some -- somewhat, I guess.

20      MR. NELMS: If I might, is  
21 that your Social Security number?

22      A. Yes, it is.

23      MR. NELMS: Okay. And you're

19 (Pages 73 to 76)

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1 identified as taxpayer, right?  
2 A. That's what he's saying, yes.  
3 Q. And you don't -- you don't  
4 have any reason to dispute that is what  
5 I'm trying to get to?  
6 A. No, sir.  
7 Q. All right. So, good. Tell me  
8 the order of your employment with these  
9 companies in 2003. Who were you employed  
10 by?  
11 A. Well, it was J. B. Hunt  
12 actually first and then Liberty National.  
13 Q. And then American General?  
14 A. American General.  
15 Q. What were you doing for J. B.  
16 Hunt Transport?  
17 A. J. B. Hunt, I was a recruiter  
18 for those guys.  
19 Q. What was J. B. Hunt?  
20 A. It's a trucking company. It's  
21 a transportation company.  
22 Q. Are they an LTL carrier? Less  
23 than truckload?

1 A. It was a salary.  
2 Q. Do you recall what the weekly  
3 salary was?  
4 A. No, sir, I do not. I do not  
5 recall.  
6 Q. And did you quit that job?  
7 A. I left there to go to work  
8 with Liberty National.  
9 Q. So, you resigned from that  
10 employment?  
11 A. Yes, I did.  
12 Q. Where was the location that  
13 you worked out of for J. B. Hunt?  
14 A. Arkansas.  
15 Q. Okay.  
16 A. Yeah, it was Arkansas. Home  
17 headquarters.  
18 Q. The headquarters for J. B.  
19 Hunt?  
20 A. Yes.  
21 Q. Do you remember the name of  
22 your supervisor there?  
23 A. No, I do not.

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1 A. Beg your pardon?  
2 Q. What kind of carrier are they?  
3 A. Just over-the-road  
4 tractor-trailer.  
5 Q. And they'll pick up less than  
6 a truckload and take it place to place?  
7 A. I have no idea. I do not know  
8 that.  
9 Q. So, what, you were recruiting  
10 drivers for them?  
11 A. Yes. Yes.  
12 Q. How would you go about doing  
13 that?  
14 A. Just solicitation at the  
15 different truck stops, fliers.  
16 Q. Put ads in the paper?  
17 A. I never put any ads in the  
18 paper.  
19 Q. All right. And how were you  
20 compensated by J. B. Hunt?  
21 A. It was -- they paid me weekly.  
22 Q. Were you on a salary, or did  
23 your success rate --

1 Q. How long did you work for J.  
2 B. Hunt total?  
3 A. I have no -- I don't -- I have  
4 no recollection -- recall of that. I do  
5 not know. I don't remember.  
6 Q. Okay. And then I think you  
7 said you went directly to Liberty after  
8 that?  
9 A. Yes.  
10 Q. And what were you doing for  
11 Liberty?  
12 A. I was an agent.  
13 Q. Selling?  
14 A. Life and health.  
15 Q. And that was pure commission,  
16 salary plus commission?  
17 A. There was a training salary,  
18 and then it went from the training  
19 salary -- you had a training salary, and  
20 then you had a commission pool that you  
21 drew your pay off of percentagewise.  
22 Q. Yes.  
23 A. And that's the way that

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1 worked. I don't remember what the  
2 training salary was right offhand.

3 Q. All right. And then you  
4 resigned from your employment at Liberty,  
5 is that correct?

6 A. No, actually that was before I  
7 was a licensed -- I had my insurance  
8 license, and in the state when you take  
9 your license to become an agent, you  
10 have, if I'm -- I think I'm correct with  
11 this. I think you can take your test  
12 twice. If you fail it twice, you've got  
13 to wait six months before you take your  
14 test again.

15 Q. Yes.

16 A. And I did not pass my tests.  
Well, they could not keep me on. So, I  
18 moved -- I mean, that ended my job,  
19 basically.

20 Q. Do you remember when you  
21 failed the test and had to leave?

22 A. No, sir, I do not. I don't  
23 remember that. I know I went from there

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1 employed each week during that year?

2 A. No, sir, I was employed.

3 Q. Have a look at, if you would,  
4 Defendant's Exhibit D, which is your 2002  
5 tax return.

6 (Whereupon, Defendant's  
7 Exhibit D was marked for  
8 identification.)

9 Q. This reflects wages, salaries  
10 and tips on page three, I'm looking at  
11 line seven, of \$22,837. And then  
12 business income of \$4402 and then a  
13 capital loss of \$3,000, for total income  
14 that year of \$25,146. Is that correct?  
15 Is that what your total income was that  
16 year?

17 A. Yes.

18 Q. And on the wages component, it  
19 looks like we have for you wages of a  
20 little over \$5900 from Dixie  
21 Homecrafters. That's on page one, the  
22 second W-2, correct?

23 A. Yes, sir.

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1 to -- to American General and went  
2 through their training, and, I mean, I  
3 had no problems passing the test. I --  
4 you know, I -- I received my license at  
5 that point in time with American General.

6 Q. So, did you have a six month  
7 period of unemployment there?

8 A. No, huh-uh. It was just very  
9 quick transition, maybe a week to two  
10 weeks, you know.

11 Q. And then you were able to  
12 retake the exam --

13 A. Yes.

14 Q. -- before that six months  
15 period expired?

16 A. Oh, yes. It was either -- I'm  
17 saying six months. It may have been four  
18 months. Four to six months you had a  
19 downtime that the State would not let you  
20 take the test, but I took it, and I  
21 passed it.

22 Q. Did you have any periods of  
23 unemployment during 2003, or were you

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1 Q. And, then, we have roughly  
2 \$971 from SCI Management, LP?

3 A. Yes.

4 Q. What is that entity?

5 A. That's -- I worked with --  
6 actually it was Green -- Green --  
7 Greenwood Funeral Service. Cemetery, not  
8 the funeral home, but the cemetery.

9 Q. What were you doing with them?

10 A. I was sales, lots.

11 Q. Selling lots in a cemetery?

12 A. Yes. And headstones and stuff  
13 like that.

14 Q. And then the next page of the  
15 Exhibit D, I show you as having roughly  
16 \$4800 in income from Sears Home  
17 Improvement Products?

18 A. Yes.

19 Q. What were you doing with them?

20 A. It was home improvement.

21 Q. Was that --

22 A. Windows and siding.

23 Q. Were you calling on people, a

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1 similar deal --

2 A. Yes.

3 Q. -- where the store sets up an  
4 appointment and --

5 A. No, sir. This was not  
6 connected to the store at all. It was  
7 actually -- our appointments were  
8 generated out of Atlanta through fliers,  
9 telemarketing and such, and we would run  
10 the leads from that.

11 Q. By running leads, you would  
12 then call on people?

13 A. Appointments. No, sir, I  
14 didn't, but they did, so it was  
15 appointments. It was set appointments.

16 Q. Okay. Was that a commission  
17 only deal?

18 A. Yes, sir, it was.

19 Q. How long did you work for  
20 Sears Home Improvement?

21 A. Oh, I don't know. I worked  
22 with those guys until they closed the  
23 office here in Montgomery.

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1 Q. And what were you doing with  
2 Dixie Homecrafters?

3 A. Same -- same thing, a few more  
4 products. They had siding and gutters.

5 Q. What was the sequence of your  
6 employment here in 2002?

7 A. I was with Home -- I was with  
8 Home Depot. I went with Dixie  
9 Homecrafters and then with SCI.

10 Q. Well, you said Home Depot.  
11 Did you mean to say Sears Home  
12 Improvement?

13 A. Oh, I'm sorry. Yes, Sears  
14 Home Improvement.

15 Q. Okay. And how long during  
16 2002 did you work for each of these?

17 A. I do not recall.

18 Q. And Exhibit D is your tax  
19 return that you filed with the government  
20 for calendar year 2002?

21 A. Yes, sir.

22 Q. Why don't you take a quick  
23 look at Exhibits E and F?

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1 (Whereupon, Defendant's  
2 Exhibits E and F were marked  
3 for identification.)

4 Q. Are these two -- let's look at  
5 E first. Is Exhibit E your 2001 federal  
6 income tax return?

7 A. Yes, sir, it is.

8 Q. And does it accurately reflect  
9 the income you and your wife received for  
10 that year?

11 A. Yes, sir.

12 Q. And when I flip over to the  
13 same salary and wages report that we just  
14 talked about a minute ago for another  
15 return, page 11 --

16 A. Okay.

17 Q. -- it looks like for the  
18 taxpayer, which we determined is you, we  
19 have a little over \$28,000 for Sears Home  
20 Improvement, \$3,300 for Swift  
21 Transportation --

22 A. Yes.

23 Q. -- \$418 for Drivers

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1 Management?

2 A. Right.

3 Q. Those are all of the jobs you  
4 had that year?

5 A. Yes.

6 Q. And were you working with  
7 Swift Transportation and then resigned  
8 from them --

9 A. Yes, I did.

10 Q. -- to go to work at Sears?  
11 Correct?

12 A. Yes.

13 Q. So, did you work the bulk of  
14 the year at Sears, does it appear?

15 A. I do not recall if it was the  
16 bulk of the year or not.

17 Q. Well, certainly the bulk of  
18 your earnings were with Sears that year?

19 A. Yes.

20 Q. And, then, what is Drivers  
21 Management?

22 A. It was just a -- I guess a  
23 training division of Swift.

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1 Q. What did you do for Swift?  
2 A. I drove for those guys.  
3 Q. Were you an over-the-road  
4 driver?  
5 A. No, a regional.  
6 Q. What does that mean?  
7 A. Southeast, just the southeast.  
8 Q. But you were driving a big  
9 tractor-trailer truck?  
10 A. Yes.  
11 Q. And how was your compensation  
12 computed for that?  
13 A. So much per mile.  
14 Q. And did you own your truck or  
15 rent it?  
16 A. No, sir, it was company owned.  
17 Q. Company-owned truck. I'm  
18 sorry.  
19 A. Yes, sir.  
20 Q. And did you resign that job to  
21 go to work at Sears?  
22 A. Yes, I did.  
23 Q. Okay. Let's go to Exhibit F,

1 it?  
2 A. David Murabito.  
3 Q. Okay.  
4 A. We were just actually  
5 partners.  
6 Q. Okay. I may have asked this  
7 previously, but where is David today?  
8 A. David is in Tampa, Sarasota,  
9 Florida area.  
10 Q. What's he doing down there?  
11 A. He works for Home Depot  
12 At-Home Services. The last I spoke with  
13 him, he was with Home Depot.  
14 Q. I see in addition to the  
15 income from that entity on the salaries  
16 and wages report that we've been looking  
17 on the previous tax returns, this one  
18 shows taxpayer, namely, you receiving  
19 \$21,997 from Edison Security?  
20 A. Yes.  
21 Q. Who owned Edison Security?  
22 A. Wes-Tech Edison.  
23 Q. And where is it located?

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1 which is your 2000 federal tax return, is  
2 it not?  
3 A. Yes, sir.  
4 Q. And that's for both you and  
5 your wife Deborah?  
6 A. That's correct.  
7 Q. If you'll flip over to about  
8 page five or so, I am seeing an income  
9 from partnership and S corporations of  
10 roughly \$18,986 from an entity called  
11 Security Experts, LLC?  
12 A. That's correct.  
13 Q. Is that the company that you  
14 owned?  
15 A. That was the -- that was the  
16 other company. I had actually two  
17 security companies.  
18 Q. Okay. And how long had you  
19 owned -- who else owned an interest in  
20 this, anyone other than you, did your  
21 wife?  
22 A. Yes.  
23 Q. Who else owned an interest in

1 A. They closed their -- they are  
2 no longer in this area.  
3 Q. Okay.  
4 A. As far as a branch office.  
5 Q. Are they still in business  
6 now?  
7 A. I have no idea.  
8 Q. So, you were an employee for  
9 them?  
10 A. I was a salesman.  
11 Q. And did you at the same time  
12 have your own security company, as well?  
13 A. No, I did not.  
14 Q. So, you -- did you resign from  
15 Edison to start your own company?  
16 A. No, sir, they closed the  
17 office, and after that is when I opened  
18 Security Experts.  
19 Q. Did your wife also work for  
20 Edison Security or not?  
21 A. No, sir, she did not work for  
22 Edison Security.  
23 Q. What was she doing at this

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1 period?

2 A. I don't know.

3 Q. Also I see some income from an  
4 entity on here called Best Security  
5 Systems, Inc. of \$1,587?

6 A. Right. That was another  
7 independently-owned security company here  
8 in Montgomery.

9 Q. And who worked for them, you  
10 or your wife?

11 A. Actually when Edison shut  
12 down, I went to work for Best for a very  
13 short period of time, then I opened -- I  
14 just -- yeah, that's what I was trying to  
15 think. And then David and I opened the  
16 Security Experts.

17 Q. What about the other company  
18 that you mentioned previously, was there  
19 any income from that reported this year?

20 A. In 2000?

21 Q. Yes.

22 A. No, that was before 2000.

23 Apparently it was before.

1 or --

2 A. Yeah, cold calling.

3 Q. In 2000, we also see a little  
4 bit of income, I think, from Capital  
5 Chevrolet, wages and salary report?

6 A. Yeah, it was for a short  
7 period of time I was with those guys as a  
8 salesman.

9 Q. Selling cars?

10 A. Yes.

11 Q. New cars, used cars?

12 A. Yes.

13 Q. Both?

14 A. Yes.

15 Q. And then there's also a  
16 reference to Osiris, O-S-I-R-I-S, Holding  
17 Company on the wages and salary report?

18 A. I don't have a clue to what  
19 that is.

20 Q. Okay. Do you own an  
21 automobile at this time?

22 A. Yes, I do.

23 Q. Does your wife own one as

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Page 96

1 Q. All right. I don't see any  
2 income from Regions at this juncture  
3 either as of 2000, so she must have  
4 resigned from Regions before that as  
5 well?

6 A. Yes.

7 Q. Have you ever been arrested  
8 for anything?

9 A. No, sir.

10 Q. Not as a child or minor?

11 A. No.

12 Q. Have you ever had any kind of  
13 a misdemeanor charge --

14 A. No, sir.

15 Q. -- or any kind of criminal  
16 charge against you?

17 A. No, sir.

18 Q. -- of any kind? Say again.

19 A. No, sir.

20 Q. What did you do at Best  
21 Security Systems in 2000?

22 A. I was a sales rep.

23 Q. And was that cold calling

1 well?

2 A. Yes, we did. Yes, she does.

3 Q. Do y'all own them together?

4 A. Yes, we do.

5 Q. What are they, make, model,  
6 year?

7 A. I've got a -- she's got a 2000  
8 Mazda Miata. I have a '93 Nissan Sentra  
9 that I use for work.

10 Q. Yes.

11 A. And I have a 1990 Toyota, a  
12 four-wheel-drive.

13 Q. As a part of the initial  
14 disclosures that the court required be  
15 produced in this case and that were  
16 produced by your counsel last year, we  
17 had -- we received some tapes. We had  
18 those tapes transcribed by a court  
19 reporter.

20 A. Right.

21 Q. And last week we sent the  
22 transcript to your counsel and basically  
23 asked that you have a look at them and

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Page 99

1 let us know if you thought they were  
2 accurately transcribed or not. Have you  
3 done that?

4 A. I have looked at them.

5 Q. Okay. Let me ask you to take  
6 a look at --

7 MR. PARKER: It should be  
8 Exhibit --

9 MR. NELMS: M.

10 MR. PARKER: M and O.

11 Q. Let me ask you to take a look  
12 at Exhibit O first of all.

13 (Whereupon, Defendant's  
14 Exhibit O was marked for  
15 identification.)

16 A. Okay.

17 Q. And I'm going to ask you --  
18 and that's -- it has on the cover phone  
19 conversations, Charlie Thornton slash  
20 FedEx. It has an index which I know is  
21 not something that you created. That's  
22 something that the court reporter  
23 created, and it has a series of names of

1 transcript with it.

2 Q. Okay.

3 A. So --

4 Q. All right. Did you see  
5 anything from your own recollection of  
6 the tapes in reading through the  
7 transcripts that you thought was  
8 inaccurate?

9 A. There again, I can't say. You  
10 know --

11 Q. Why can't you answer that  
12 question?

13 A. Because if I read something --  
14 I mean, I'm reading this and knowing  
15 what's coming off the tape may be worded  
16 differently, I -- I cannot say with  
17 100 percent accuracy that it is exactly  
18 the way it came off the tape because I  
19 did not take the tape, listen to the tape  
20 and read the transcript at the same time.

21 Q. You already told me that.  
22 What I'm asking you is, based on reading  
23 the transcript, did you see anything in

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Page 100

1 people --

2 MR. PARKER: I don't think  
3 that their exhibits have an index.

4 A. I don't have that.

5 MR. PARKER: The ones, the  
6 court reporters and theirs, they just  
7 start at the first page.

8 Q. Okay. Sorry. Okay. In any  
9 case, Exhibit O, according to the court  
10 reporter who listened to the tapes, is a  
11 true and correct transcription of what's  
12 on the tapes. My question to you is,  
13 having read and reviewed these tapes and  
14 having made the tapes and having reviewed  
15 these transcripts, do you have any  
16 quarrel with the accuracy of what is in  
17 front of you as Exhibit O?

18 A. I have not been able to  
19 compare apples to apples as far as  
20 reading the total accuracy of the  
21 documents here. I cannot say they are  
22 100 percent accurate because I did not  
23 listen to the tape and then read the

1 it, based on your own participation in  
2 these conversations, that you thought was  
3 wrong? That's my question.

4 A. No.

5 Q. Did you make any recordings of  
6 any conversations with any FedEx  
7 employees other than those that are  
8 reflected in the transcripts in front of  
9 you as Exhibit O?

10 A. No, sir.

11 Q. It's true, is it not, that you  
12 did not tell any of the people whose  
13 conversations you recorded as shown in  
14 Exhibit O that you were recording the  
15 conversations?

16 A. That is true.

17 Q. So, none of these people that  
18 you were talking to, as reflected on  
19 Exhibit O, had any reason to know that  
20 you were recording the conversations  
21 because you didn't tell them that you  
22 were recording them?

23 A. I did not tell the individuals

25 (Pages 97 to 100)

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1 that I was recording, no.

2 Q. It's true, though, that you  
3 had a number of conversations with FedEx  
4 employees that you did not record,  
5 correct?

6 A. Prior to me recording these,  
7 not after I started recording. Every  
8 conversation after the fact was recorded.

9 Q. And when did you make your  
10 first recording, what date?

11 A. I do not recall that date.

12 Q. Was it May the 19th?

13 A. I do not recall the date.

14 Q. Okay. I think we're going to  
15 be able to figure that out, but we'll get  
16 to that.

17 But your testimony is whatever  
18 the earliest date is that we have -- for  
19 which we have a recorded conversation,  
20 from that point forward, every  
21 communication you had with FedEx or with  
22 Mr. Primus at the bank was recorded by  
23 you?

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1 A. Yes, sir.

2 MR. NELMS: Excuse me. Every  
3 telephone conversation.

4 A. Yes, telephone.

5 Q. Okay. You had other  
6 conversations not on the phone with  
7 people that were not recorded.

8 A. No, sir.

9 Q. Okay. Well, that's what I'm  
10 trying to figure out.

11 A. Okay. No, sir, I did not.

12 Q. So, whatever the earliest date  
13 is where we -- where you recorded a  
14 conversation, you had no communications  
15 with FedEx, anybody at FedEx, other than  
16 one that was actually recorded?

17 A. That's correct.

18 Q. And you knew you were calling  
19 some people in Pittsburgh, Pennsylvania,  
20 correct?

21 A. That's exactly right.

22 Q. Are you aware, as you --

23 A. Well, let me back up. The

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1 phone numbers -- I talked to one  
2 individual that was in Honolulu, Hawaii.

3 Q. Yes.

4 A. And I did not know I was  
5 calling Honolulu, Hawaii.

6 Q. But you know that you made  
7 several telephone calls to people in  
8 Pittsburgh, Pennsylvania, correct?

9 A. I made phone calls to  
10 Pittsburgh, Pennsylvania.

11 Q. And you recorded the calls?

12 A. Yes, I did.

13 Q. Are you aware, as you sit here  
14 today, that it is a crime under  
15 Pennsylvania law to record a conversation  
16 and not tell the other person you're  
17 recording it?

18 A. I was not aware of that. I  
19 was making the phone call from the State  
20 of Alabama. They did not call me.

21 Q. Okay. Are you aware of that  
22 now?

23 A. If you're making me aware of

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1 it.

2 Q. You've not heard that before  
3 today?

4 A. No, sir, I have not.

5 MR. NELMS: Hang on a minute.  
6 You and I talked about it.

7 A. What?

8 MR. SPOTSWOOD: I didn't mean  
9 to inquire into your communications.

10 MR. NELMS: I know, but if  
11 you're not telling him about the  
12 conversations that you and I have had, I  
13 waive any attorney-client privilege.  
14 We --

15 A. Oh, we've talked, sure.

16 MR. NELMS: All right. Did  
17 I --

18 A. I thought he was talking about  
19 FedEx.

20 MR. NELMS: Well, y'all be  
21 clear.

22 Q. (BY MR. SPOTSWOOD:) You've  
23 just revealed, I guess, that you did have

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1 some communications with your counsel  
2 about that issue. I don't mean to  
3 inquire into those, but you did discuss  
4 those issues, correct?

5 MR. NELMS: Right. I waive  
6 any privilege. Do you wish to waive any  
7 privilege that we might have related to  
8 this specific issue of whether or not you  
9 were aware, of course, after the fact  
10 that it is a crime in Pennsylvania to  
11 record conversations without letting the  
12 party being recorded know that, in fact,  
13 they are being recorded? Do you waive  
14 that part of the attorney-client  
15 privilege?

16 A. Sure.

17 MR. NELMS: It's your  
18 privilege, not mine.

19 A. I mean, I don't really -- I  
20 mean, I'm wanting to understand what  
21 you're saying to me.

22 Q. (BY MR. SPOTSWOOD:) Well, let  
23 me just ask it this way.

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1 following occurred:)

2 Q. (BY MR. SPOTSWOOD:) On  
3 Exhibit O, and I know you guys don't have  
4 this -- what's our last exhibit?  
5 (Whereupon, Defendant's  
6 Exhibit R was marked for  
7 identification.)

8 Q. We'll take a look at this in a  
9 second. This is the index that the court  
10 reporter did that apparently is not on  
11 your -- on your page. It says here,  
12 "These conversations were transcribed in  
13 the order listed above just as they were  
14 recorded on the audiotapes." And my  
15 question to you is from -- can you  
16 confirm that these are listed here in  
17 date order? In other words, the first --

18 A. No, sir, I can't confirm it.  
19 There's no way I can confirm it unless I  
20 listen to the tape and heard the dates  
21 themselves, but I can't accurately --

22 Q. Well, I don't believe, with  
23 one or two exceptions, that there are

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Page 108

1 A. Okay.

2 Q. Before you talked with your  
3 counsel, did you have any idea or  
4 knowledge of what the law was in  
5 Pennsylvania about recording  
6 conversations?

7 A. No, sir, I did not.

8 MR. NELMS: There you go.

9 Q. When you recorded these  
10 conversations, did you record all the  
11 conversation or some of it?

12 A. All the conversation.

13 Q. What kind of equipment did you  
14 use to do that?

15 A. Just a hand -- a hand-held  
16 recorder off of a speaker phone, my home  
17 phone.

18 Can I take a moment? I need  
19 to run to the restroom.

20 MR. SPOTSWOOD: Absolutely.  
21 (Said deposition was in recess  
22 at 11:32 a.m. until 11:39  
23 a.m., after which the

1 dates stated on the transcripts.

2 A. Well, I -- I remember after I  
3 said the date on the -- on the tape. I'm  
4 not saying I did it on each and every one  
5 of them, but I can recall doing that.

6 Q. I recall one instance where  
7 you did, too, and that's what I'm looking  
8 for right here to see if I can find it.  
9 I read through these, I'll tell you, very  
10 recently.

11 A. Yeah, I noticed one of them.  
12 But I know there was more than one  
13 occasion that I actually put the date on  
14 there.

15 Q. Here we go. On page 21, that  
16 is the first reference I see to a date,  
17 and it says -- and page 21 is after  
18 your -- the recordings of the  
19 conversations of Jeff White, Kent  
20 Gastineau and then again Kent Gastineau.  
21 And on page 21 it says these calls were  
22 made on May 19th '05. Do you see that?

23 A. Yes, sir.

27 (Pages 105 to 108)

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1       Q. And, so, would that be your  
2 best recollection that that's when those  
3 calls were made, preceding from page one  
4 to page 21?

5       A. I cannot say with 100 percent  
6 accuracy that all of these calls were  
7 made on the 19th. Apparently the one  
8 that I spoke to, Angela --

9       Q. Yes?

10      A. -- what it's saying to me  
11 now --

12      Q. You're the one recording these  
13 calls.

14      A. -- is that this -- this call  
15 was made on the 19th.

16      Q. Can you explain why it says  
17 calls, plural?

18      A. No, I cannot explain that. I  
19 did not -- I did not do this  
20 transcription.

21      Q. Well, I understand that, but I  
22 can -- I can assure you this was done by  
23 a very competent professional.

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1       A. I don't even question that. I  
2 don't question that.

3       MR. NELMS: Object to the  
4 form.

5       A. What --

6       Q. I'm really kind of struggling  
7 with here is, I mean, why are you having  
8 a hard time figuring this out. These are  
9 very straightforward questions here.  
10 We've got a phone call to Jeff White, you  
11 know, you -- you're trying to find him.  
12 You don't have any success. That's pages  
13 one through three, and then starting on  
14 page four, which really kind of goes --  
15 goes in sequence here. When you called  
16 Jeff White, whom you didn't get, he told  
17 this person Cheryl to tell you to call  
18 Kent, so that's what you do, you call  
19 Kent.

20      A. Okay.

21      Q. And then you have this  
22 conversation with Kent apparently as  
23 recorded here.

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1       MR. NELMS: Bob, is there a  
2 question in here?

3       MR. SPOTSWOOD: Yeah, I'm  
4 going to get to it.

5       MR. NELMS: Well, I'm going to  
6 object to characterizations of the  
7 deponent's willingness or ability to  
8 answer the question. He's answering them  
9 as you're asking them. Characterizations  
10 otherwise are really not your province.

11      Q. Well, I -- my question is very  
12 simple. Why can't you confirm for me  
13 with this transcript in front of you that  
14 these calls, just as it says here on page  
15 19, were made -- I'm sorry, page 22, were  
16 made on the 19th of May?

17      MR. NELMS: I object to the  
18 form again because it's asked and  
19 answered.

20      MR. SPOTSWOOD: Well, it  
21 hasn't been asked and answered after he's  
22 just had a chance to look through what  
23 we're talking about, and that's what I'm

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Page 112

1       asking you to do, and if you need to read  
2 the first 22 pages here --

3       A. I have read those.

4       Q. Okay. Now, my question to you  
5 is isn't it true that the calls that  
6 precede page 21 were made on the 19th of  
7 May just like you say they were?

8       A. I cannot confirm that. I  
9 cannot. And I am being honest. I cannot  
10 confirm that.

11      Q. Okay. What calls do you think  
12 you were talking about near then? Do we  
13 need to get the tape recorder out and  
14 listen to the tapes?

15      MR. NELMS: Object to the  
16 form. Just try to answer his question  
17 the best you can.

18      A. I cannot confirm that, Bob.  
19 I'm sorry.

20      MR. NELMS: Why don't you ask  
21 him what his impression is?

22      Q. I'm glad to do that. Is it  
23 your best impression that these three

28 (Pages 109 to 112)

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1 calls were made on the 19th?

2 A. As far as looking at this  
3 particular document --

4 Q. Yeah.

5 A. -- the impression that this  
6 document gives me that these calls were  
7 made. As far as me knowing they were  
8 made, I cannot confirm that.

9 Q. Okay.

10 MR. NELMS: Let's take a  
11 break.

12 MR. SPOTSWOOD: Okay. Thank  
13 you.

14 MR. NELMS: Am I --

15 MR. SPOTSWOOD: No, go ahead.  
16 (Said deposition was in recess  
17 at 11:46 a.m. until 11:49  
18 a.m., after which the  
19 following occurred:)

20 Q. (BY MR. SPOTSWOOD:) Let's  
21 turn to Exhibit N for a minute.

22 (Whereupon, Defendant's  
23 Exhibit N was marked for

1 identification.)

2 Q. Do you have that in front of  
3 you?

4 A. Yes, sir, I do.

5 Q. This is a transcript of a tape  
6 that we received from your counsel as a  
7 part of the initial disclosures in the  
8 case, and it purports to be a statement  
9 that you dictated. Does this, in fact,  
10 appear to be a statement that you  
11 dictated into the tape recorder?

12 A. Yes, sir.

13 Q. Did you see, in reviewing this  
14 transcript, any errors that were  
15 noticeable to you, recognizing that you  
16 haven't done a word-by-word transcript  
17 versus tape comparison?

18 A. No, sir.

19 Q. I know that when I originally  
20 read through this that I wrote on the  
21 cover of it May 19th, and I suspect I did  
22 that because somewhere in here it says  
23 the date you recorded it.

1 MR. PARKER: I believe it's on  
2 the last page.

3 Q. Yes, it is, on page 53, it  
4 says, "Today is the 19th, and that's all  
5 I have for today, so I'll end this  
6 conversation now."

7 So, would it be your best  
8 judgment that this would have been  
9 recorded by you on the 19th of May?

10 A. Yes, sir.

11 Q. Of 2005?

12 A. Yes, sir.

13 Q. Okay. And my recollection is  
14 you filed this lawsuit on May the 25th of  
15 2005?

16 A. I don't recall the date.

17 Q. Is this the first time that  
18 you had recorded conversations with  
19 persons without advising them that you  
20 were doing so?

21 A. Yes, sir, it is.

22 Q. And have you done it since  
23 this time?

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1 identification.)

2 Q. Do you have that in front of  
3 you?

4 A. Yes, sir, I do.

5 Q. This is a transcript of a tape  
6 that we received from your counsel as a  
7 part of the initial disclosures in the  
8 case, and it purports to be a statement  
9 that you dictated. Does this, in fact,  
10 appear to be a statement that you  
11 dictated into the tape recorder?

12 A. Yes, sir.

13 Q. Did you see, in reviewing this  
14 transcript, any errors that were  
15 noticeable to you, recognizing that you  
16 haven't done a word-by-word transcript  
17 versus tape comparison?

18 A. No, sir.

19 Q. I know that when I originally  
20 read through this that I wrote on the  
21 cover of it May 19th, and I suspect I did  
22 that because somewhere in here it says  
23 the date you recorded it.

1 A. No, sir.

2 Q. According to your amended  
3 complaint, your first introduction to  
4 FedEx Ground came when you read a  
5 newspaper advertisement for an  
6 information session about FedEx Ground  
7 independent contractor positions, is that  
8 correct?

9 A. That's correct.

10 Q. What paper did you see this ad  
11 in?

12 A. The Montgomery Advertiser.

13 Q. Do you recall what the ad  
14 said?

15 A. No, sir, I do not recall it  
16 verbatim.

17 Q. You don't have a copy of it,  
18 do you?

19 A. No, sir, I don't.

20 MR. NELMS: I'm sorry, a copy  
21 of the ad?

22 MR. SPOTSWOOD: Yes.

23 MR. NELMS: Yeah, it was in

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1 the initial disclosures.

2 A. We had several copies.

3 MR. NELMS: If it's not, I'll  
4 give it to you now.

5 MR. PARKER: I don't think we  
6 got it.

7 MR. NELMS: I've got it.  
8 Sorry.

9 MR. PARKER: We had a list of  
10 documents.

11 MR. NELMS: This is the  
12 original. We can put it in the record.  
13 Find it for me, please.

14 A. What.

15 MR. NELMS: I forget what  
16 it -- is that it (indicating)? No.

17 A. (Examining document.)

18 MR. NELMS: It may not be on  
19 that page. It may be on the other page.

20 A. Here it is right here. That's  
21 it, independent contractors which were --  
22 no, this is for June.

23 MR. NELMS: This is --

1 on it.

2 (Said deposition was in recess  
3 at 11:54 a.m. until 11:57  
4 a.m., after which the  
5 following occurred:)  
6 (Whereupon, Defendant's  
7 Exhibits S and T were marked  
8 for identification.)

9 Q. All right. Have a look here,  
10 if you would, at Defendant's Exhibit S.  
11 This is a copy of a classified ad from  
12 the paper June the 12th, 2005.

13 MR. SPOTSWOOD: And, Counsel,  
14 if I understand you correctly, this came  
15 from The Montgomery Advertiser, is that  
16 correct?

17 MR. NELMS: Yes.

18 Q. And is this similar to the ad  
19 that you saw back in January?

20 A. This is the exact ad except  
21 for the dates when the sessions would be.

22 MR. NELMS: I want to put that  
23 in.

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1 A. This is where they was, you  
2 know, keeping on advertising. This is  
3 the June paper, but we had a -- I went --

4 MR. NELMS: Point to it for  
5 me.

6 A. It's right here.

7 MR. NELMS: All right.

8 A. That's the same ad.

9 MR. SPOTSWOOD: Do you want --  
10 can we get somebody to take a picture of  
11 that?

12 MR. NELMS: Yeah, do you want  
13 me to copy that front page? We've got  
14 whatever our -- where did it go?

15 MR. PARKER: What are you  
16 looking for?

17 MR. GASTINEAU: A copy of this  
18 right here.

19 MR. NELMS: Oh, all right.

20 You already got a copy. One second.

21 MR. SPOTSWOOD: And be sure  
22 you get me a date on that, too, if you  
23 can arrange to copy it so it has a date

1 Q. Do you have -- hang on a  
2 second.

3 (Off-the-record discussion.)

4 Q. (BY MR. SPOTSWOOD:) Do you or  
5 your counsel -- I will ask you both this:  
6 Is this the only ad like this that y'all  
7 have?

8 MR. NELMS: Charlie says that  
9 he went and copied some more.

10 A. I did not copy them. I went  
11 to the -- to the library, and I went back  
12 in the archives of the newspaper and  
13 brought the originals. I cut the  
14 original out and brought them in.

15 MR. NELMS: To me?

16 A. Yes, brought them to the  
17 office, gave them to Audrey.

18 MR. NELMS: I will get them  
19 for you when I can find them. I don't  
20 see them in my file.

21 A. Because there were times in  
22 between January and May the ad was still  
23 being run, so I got from January all the

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1 way through May and above -- beyond, and  
2 I brought them in and gave them to  
3 Audrey.

4 MR. SPOTSWOOD: And Audrey is  
5 an employee here in the firm?

6 MR. NELMS: Yes, secretary.

7 MR. SPOTSWOOD: Okay.

8 Q. (BY MR. SPOTSWOOD:) Going  
9 back to our discussions for just a  
10 minute --

11 MR. NELMS: Keep going, Bob.

12 Q. -- we've -- you -- you have  
13 testified, if I remember it correctly,  
14 that you did not record all of your  
15 conversations with Kent Gastineau or  
16 other employees because some of those  
17 conversations either were in person, and  
18 you recorded none of those, right, so  
19 far?

20 A. Let me say this: I had no  
21 conversations with anybody face-to-face  
22 after I recorded -- started the  
23 recordings on the telephone.

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1 Q. Okay.

2 A. Before that there was no  
3 recordings --

4 Q. All right.

5 A. -- either on the phone, you  
6 know, or off, face-to-face.

7 Q. All right. Why did you think  
8 it was appropriate to record  
9 conversations with these individuals who  
10 you recorded?

11 MR. NELMS: Object to the  
12 form. Answer the question.

13 A. Oh, okay. I'm sorry. Because  
14 I had prepared myself to go to work. I  
15 had put myself out on a limb. I had put  
16 myself in a position where I really  
17 thought I had an excellent, excellent  
18 opportunity to go to work for -- to go to  
19 work for an excellent company, and the  
20 night -- the night before I was to get  
21 into that truck and start my job, Kent  
22 calls me and tells me I cannot go to  
23 work, that he had signed off on some

1 documents and signed in the wrong place  
2 and was going to have to have them  
3 documents e-mailed back to him before I  
4 could go to work. And I had put my  
5 livelihood on the line, my credit on the  
6 line, and I had a \$50,000 vehicle sitting  
7 in my driveway with FedEx all over it,  
8 and uniforms to this day that are hanging  
9 in my closet to go to work. And I wanted  
10 to know what was going on, and if I,  
11 Charlie Thornton, did not prepare myself  
12 or get my ducks in line, nobody else was  
13 going to do it for me. And I had to have  
14 proof of what -- what was going down  
15 because I was in a really, really bad  
16 situation. I had a truck sitting out  
17 there that had a seven hundred and  
18 something dollar payment on it that was  
19 due in two weeks and had no -- no job.  
20 My livelihood, my wife, my family was on  
21 the line.

22 Now, I'm just answering it  
23 truthfully, Bob, truthfully. And I had

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1 been given the run-around for so long, I  
2 had to protect myself.

3 Q. And why did you record your  
4 history that's reflected in Exhibit N?

5 A. Because it was the best way at  
6 the time for me to bring it back in my  
7 mind and record it on tape other than  
8 writing it down.

9 Q. Okay.

10 A. I could think and talk at the  
11 same time and put it down. It would be  
12 more accurate this way than writing it.

13 Q. Is it fair to say that by the  
14 time you started recording these  
15 conversations that you decided that you  
16 were going to sue FedEx?

17 A. No, sir. It was not. It was  
18 not. But I wanted to -- I wanted to have  
19 something that I could hold somebody to.  
20 Kent had called me, and he had asked me  
21 how many years I wanted on the contract.  
22 I wanted two years. He was taking care  
23 of it. I trusted the man. I trusted

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1 everybody in FedEx from the trainer I  
2 went and trained with in Birmingham to  
3 everybody. I was excited because I was  
4 not just looking for this for myself. I  
5 was looking at it for four boys down the  
6 road because I had investigated this, my  
7 wife and myself, and I knew that it could  
8 possibly be a future for my -- my boys  
9 down the road. And, no, I did not. I  
10 did not have, when I started recording  
11 this, intentions on suing anybody. My  
12 intentions were to have a job.

13 Q. Six days later you filed a  
14 lawsuit?

15 A. Six -- six days. How long  
16 does it take you to make up your mind?

17 MR. NELMS: Just answer the  
18 question.

19 A. I knew -- yes, six days later.

20 MR. NELMS: If that was a  
21 question.

22 MR. SPOTSWOOD: It was a  
23 question.

1 A. I gave those notes to Andy.

2 MR. SPOTSWOOD: I'm supposed  
3 to have that. I mean, we have asked it  
4 every which way known to man for any  
5 documents he has related to any of this.  
6 We don't have them.

7 MR. NELMS: Off the record if  
8 that's all right with you.

9 MR. SPOTSWOOD: Yes.  
10 (Off-the-record discussion.)  
11 (Said deposition was in recess  
12 at 12:06 p.m. until 12:38  
13 p.m., after which the  
14 following occurred:)  
15 (Whereupon, Defendant's  
16 Exhibit U was marked for  
17 identification.)

18 MR. SPOTSWOOD: I am putting  
19 this U on a blank part of this piece of  
20 paper here.

21 MR. NELMS: Understood.  
22 (Off-the-record discussion.)

23 Q. (BY MR. SPOTSWOOD:) Mr.

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1 Q. (BY MR. SPOTSWOOD:) Did your  
2 wife attend the sessions that you  
3 attended, which I think from some -- let  
4 me break this question down.

5 When did you attend the  
6 informational session about becoming a  
7 driver, contractor?

8 A. January.

9 Q. Does January 4 stick with you?

10 A. I cannot recall the date, but  
11 it was in January. I believe it was on a  
12 Thursday.

13 Q. Okay. Did anybody attend with  
14 you, your wife?

15 A. Yes, my wife. And she's a  
16 sharp lady, I can tell you.

17 MR. NELMS: Answer his  
18 questions.

19 Q. Do you know whether either you  
20 or she made any notes of any kind in  
21 connection with this?

22 A. Yes, I did.

23 Q. Where are those note?

1 Thornton --

2 A. Yes, sir.

3 Q. -- I'm going to show you what  
4 I've marked as Defendant's Exhibit U,  
5 which is a two-page -- it's front and  
6 back, got writing on the front and back.

7 A. Yes.

8 Q. These are notes of yours, are  
9 they not?

10 A. Yes, sir, they are.

11 Q. And is everything on these two  
12 pages in your handwriting?

13 A. Yes, sir, it is. Okay.

14 Except -- I'm sorry. Let me back up.

15 Except for -- except for one at the  
16 bottom of the first page here, you see  
17 the little star that says what areas are  
18 open.

19 Q. Yes.

20 A. My wife wrote that.

21 Q. All right. And -- okay.

22 A. And if you see out to the  
23 side, I asked that question. It says

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1 Montgomery, Troy and Wetumpka, Elmore.

2 Q. Yes.

3 A. And that was the response --  
4 that was a response from Stan.

5 Q. All right. Where did this  
6 session with Stan take place?

7 A. The Holiday Inn 85 in  
8 Montgomery.

9 Q. And who else presented  
10 information about the company other than  
11 Stan?

12 A. No one.

13 Q. How many people were in  
14 attendance?

15 A. I do -- I really don't recall.  
16 There was probably seven to ten people  
17 there.

18 Q. What do you recall, whether  
19 you look at these notes or not, that Stan  
20 said about the job itself?

21 A. Well, I recall it's pretty  
22 much been embedded in my mind. I recall  
23 everything he actually said. He went

1 being an independent contractor?

2 A. Yes, sir.

3 Q. Is that what the job was  
4 described as?

5 A. Yes. He said that -- well, he  
6 told us that he was the ground manager,  
7 but he was pretty much running both  
8 ground and home delivery and that the --

9 Q. This was a seminar for  
10 becoming a -- or a presentation or an  
11 information session about becoming a home  
12 delivery, independent contractor driver?

13 A. Yes, sir. Yes, sir.

14 Q. Did he describe the contract  
15 that the independent contractors would  
16 have to sign?

17 A. He did not get into the  
18 contractor.

19 Q. Did he tell you, though, you'd  
20 have to sign a written contract?

21 A. He did not say that.

22 Q. Okay. You understood that  
23 later, I guess, when you saw that book

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1 into the presentation, and everybody left  
2 except my wife and one other individual.  
3 It was a gentleman.

4 Q. When you say they left, you  
5 mean in the middle of the presentation,  
6 at the end of the presentation?

7 A. At the end of the  
8 presentation.

9 Q. Okay.

10 A. And, so, we at that time was  
11 asking him questions, and --

12 Q. What was his presentation  
13 basically? What was the substance of  
14 what he provided to you at the  
15 presentation?

16 A. Well, the substance of the  
17 presentation was that they were in need  
18 of contractors and he described the job,  
19 how hard the job would be. He described  
20 the pay of the job, the training, and  
21 that you had to be able to secure  
22 financing on a delivery type vehicle.

23 Q. Did he say anything about

1 we've been passing around here?

2 MR. NELMS: Object to the  
3 form.

4 A. Does that mean answer?

5 Q. Yes.

6 A. This is new to me. I don't  
7 know. I signed so many different  
8 documents while I was there. I was under  
9 the assumption that I had signed off to  
10 be a contractor because the phone call  
11 that I received from Kent asking me about  
12 the one- or two-year contract, I asked  
13 him to explain it to me, and he just said  
14 it's either a one- or two-year. They  
15 review your performance, and -- and, you  
16 know, it's based on that. I said  
17 definitely I want two years.

18 (Off-the-record discussion.)

19 Q. (BY MR. SPOTSWOOD:) Let me go  
20 ahead and mark that. This is marked as  
21 Defendant's Exhibit V.

22 (Whereupon, Defendant's  
23 Exhibit V was marked for

33 (Pages 129 to 132)

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1 identification.)

2 Q. This is, I'll state for the  
3 record, a document that your counsel  
4 produced to us today. It's called P & D  
5 Contractor Business Guide. It has a  
6 number up on the top of the first page,  
7 06789 P 149 RES, and it has on the inside  
8 a this week fuel supplement page that's  
9 dated 3/22, and then it's hard to tell  
10 what year of 2000 it is, because it's cut  
11 off. And, then, it has a -- starts with  
12 FedEx home delivery standard contractor  
13 operating agreement. Then it has a table  
14 of contents, agreement, leased equipment,  
15 various attachments. When did you  
16 receive this book?

17 A. As far as the date, I'm not  
18 sure. I can't recall the date when I  
19 received it. It was in -- well, I just  
20 don't recall the date. It was before I  
21 received the truck.

22 Q. It was before you received the  
23 truck?

1 page -- on page 29, there is a signature  
2 line for FedEx Home Delivery, and there  
3 is a contractor line, and it asks for  
4 signature, typed name, witness. Did you  
5 ever sign a contract like this?

6 A. Like I said earlier, I signed  
7 so many documents, I do not -- I do not  
8 know if it was that document or not.

9 Q. All right. So, as we sit here  
10 today, and I can assure you that --

11 A. I was told that this document  
12 here was for me to keep.

13 Q. All right. Who told you that?

14 A. Kent.

15 Q. What I'm -- what I can tell  
16 you is that your lawyers have not  
17 produced a signed contract for me, okay?  
18 And I take it you never provided one to  
19 them?

20 A. I gave Andy everything I have.

21 Q. All right. And I can tell you  
22 that our files do not reflect a signed  
23 contract from you. And your testimony

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1 A. Yes, sir.

2 Q. Was it in -- as early as  
3 February that you saw that?

4 A. I do not recall.

5 Q. Do you recall whether it was  
6 immediately before you received the  
7 truck?

8 A. I do not recall.

9 Q. Just before you received the  
10 truck?

11 A. I know -- I know that I  
12 received it before I received my truck.

13 Q. Okay. Let me, if I may,  
14 Counsel, unless you need it, let me call  
15 your attention to the agreement in here  
16 which is in the second tab, a standard  
17 contractor operating agreement. Did you  
18 read this document?

19 A. Yes, I have.

20 Q. You did?

21 A. Yes, I have.

22 Q. And when we get over here to  
23 the end of this document, there is a

1 today is you can't really remember  
2 signing a contract like this?

3 A. I signed so many documents I  
4 do not -- I do not recall what documents  
5 I actually signed. But I do know that  
6 Kent called me and told me he was putting  
7 me in for two years.

8 MR. NELMS: Just answer his  
9 questions.

10 A. Okay.

11 Q. And that that was the contract  
12 that he was going to request for you, he  
13 was going to request a contract for two  
14 years?

15 MR. NELMS: Object to the  
16 form.

17 A. He never --

18 Q. Sir?

19 A. He never said that to me. He  
20 didn't ever --

21 Q. Well, what does it mean to you  
22 when he said he was going to put in for  
23 two years? Doesn't that mean request a

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1 two-year contract for you? Are you  
2 trying to tell me something else?

3 A. No, I'm telling you that the  
4 phone conversation was he was signing me  
5 up for two years.

6 Q. All right.

7 A. And he was submitting it --  
8 submitting it.

9 Q. All right.

10 A. There was never a request.

11 Q. Oh, you never requested a  
12 two-year contract?

13 A. No.

14 MR. NELMS: Object to the  
15 form.

16 Q. You didn't?

17 MR. NELMS: Answer his  
18 question, if you can.

19 Q. You didn't?

20 A. What?

21 MR. NELMS: Answer his  
22 question if you can.

23 A. Pardon me, re --

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1 said I'd like a two-year, right? It's  
2 not hard.

3 A. Right.

4 Q. All right. I know that -- Mr.  
5 Thornton, I know that a lot of different  
6 things happened that we're going to talk  
7 about during the course of this three- or  
8 four-month period, and I will tell you  
9 that one of the things I really think  
10 would be helpful for both of us is that  
11 if we try to do this sort of over a time  
12 line, so that's what I'm going to try to  
13 do. I just want you to know where I'm  
14 going.

15 On this sheet, Defendant's  
16 Exhibit U here, if I may, can I look at  
17 your original --

18 A. Yes.

19 Q. -- because I noticed that  
20 there was a little yellow highlighter on  
21 the original for W-E-P-T Elmore, which I  
22 assume means Wetumpka?

23 A. Yes.

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1 Q. You didn't respond to his  
2 inquiry about one or two years with a  
3 request for a two-year contract?

4 A. I -- what I asked him on the  
5 phone was what does the -- what does the  
6 one- or two-year contract mean because I  
7 was going to be a long-term employee, and  
8 he explained it to me this way: FedEx  
9 has the right to renew it. It's  
10 according to the way you perform in the  
11 field. You keep your maintenance up on  
12 your truck and keep your -- keep yourself  
13 in line with FedEx rules and regulations.  
14 I said two years because I -- hey, I'm  
15 not going anywhere.

16 Q. But you don't view that as  
17 requesting a two-year contract?

18 MR. NELMS: Object to the  
19 form.

20 A. No, I do not.

21 Q. Okay.

22 A. He asked me --

23 Q. One-year or two-year and you

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1 Q. Okay. Why is there this  
2 highlighter there?

3 A. No, I have no idea why it's on  
4 there.

5 Q. No significance to you?

6 A. No.

7 Q. There's also a question mark  
8 by Troy.

9 A. Right.

10 Q. What's the significance of  
11 that if you can recall?

12 A. I was told at the time that  
13 they had someone that possibly -- would  
14 possibly be taking that route over, but  
15 it wasn't for sure.

16 Q. Okay. And the specific  
17 question that your wife asked, I take it,  
18 since you said this is her handwriting in  
19 brackets, what areas are open, that was a  
20 question that you asked or that she  
21 asked?

22 A. She wanted me to ask.

23 Q. And you asked it --

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1       A. Yes, sir, I did.

2       Q. -- to Stan? Was that at the  
3 conclusion of the session when most  
4 everybody else had left?

5       A. Yes.

6       Q. And then you wrote down his  
7 response?

8       A. Yes, sir, I did.

9       Q. Montgomery, maybe Troy, I  
10 guess, question mark, Troy and Wetumpka,  
11 Elmore?

12      A. That's correct.

13      Q. Okay. Up at the top here you  
14 marked down Joe McDonald, Thursday.  
15 What's the significance of that?

16      A. Joe McDonald was the -- well,  
17 Thursday actually is the date that the  
18 meeting was held, the session.

19      Q. Yes.

20      A. Joe McDonald, he was the  
21 terminal manager --

22      Q. Yes.

23      A. -- in Birmingham, and that's

1       Q. Okay. And then there's a

2 462-4690 phone number. What's that  
3 number, if you remember?

4       A. I don't -- I don't -- I don't  
5 recall. I don't know what that number  
6 is.

7       Q. All right. And the next item  
8 here is eight-day course, you pay. What  
9 does that mean?

10      A. The course in Birmingham was  
11 eight days, and --

12      Q. What was that course for?

13      A. It was for training. It was  
14 for Smith driver training. It was for  
15 the hand-held scanner training. It was  
16 with -- taught by Omar Newman.

17      Q. And was that -- when you say  
18 you pay, what does that mean?

19      A. Well, it was -- we was -- we  
20 was asking questions about whether to  
21 stay there in Birmingham in a motel or  
22 come -- drive back, and he said, well, if  
23 you elect to stay, you'll pay. You'll

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1 who I was to report to for training.

2       Q. And there's a number listed  
3 there. Is that Stan Trott's number,  
4 277-0030?

5       A. Yes, sir.

6       Q. And we have another number  
7 here listed 395-8387 and underneath that  
8 dock. What is that?

9       A. I do not recall that number.

10 I know it has something to do with FedEx.  
11 It may be a phone number out on the dock.  
12 I don't -- I can't remember.

13      Q. All right. And you had on the  
14 line right next to dock, it says 50,000  
15 and then 75,000 year income.

16      A. Right.

17      Q. So, that means a range of  
18 income 50,000 to 75,000, is that what  
19 that meant to you?

20      A. Yes.

21      Q. And then it says truck average  
22 35,000 per year cost?

23      A. Right.

1 pay for the room.

2       Q. You were paid for the training  
3 time, I take it --

4       A. Yes, sir.

5       Q. -- in this course? And then  
6 there's a bracketed benefits, you pay.  
7 What does that mean?

8       A. Okay. That is your benefits  
9 as far as your insurance, your  
10 responsibility for your own medical  
11 insurance.

12      Q. As an independent contractor,  
13 you pay for all of that stuff on your  
14 own?

15      A. Yes, sir. Yes, sir.

16      Q. All right. And then we have  
17 Gastineau, Kent, his phone number.  
18 390-0480, is that what that means?

19      A. That's correct.

20      Q. And then there's a straight  
21 line down the middle of the page there,  
22 and to the right of it it says starting  
23 time and then three-week month. What

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1 does all that mean?

2 A. The question I asked Stan was  
3 once you complete your training in  
4 Birmingham and you come out, you've got  
5 to drive to the terminal, and how long  
6 does that actually take before you're  
7 assigned and you're out on the road  
8 working. He said three weeks to a month.

9 Q. And then the next line is a  
10 van number?

11 A. That was the number they  
12 issued me on my van.

13 Q. Okay. Well, that -- what I'm  
14 trying to figure out, I guess, from this  
15 page in part, is that is obviously  
16 something you didn't write down on the  
17 day of this meeting?

18 A. No, sir. You're right.

19 Q. That's something you wrote  
20 down later when you knew that?

21 A. Right.

22 Q. Okay. And then the next item  
23 here we've got to the left of the three

1 was just which door to go in.

2 Q. 6 p.m. at night it looks like,  
3 is 6 p.m. right?

4 A. Well, it was actually in the  
5 morning. I don't know why I put p.m. on  
6 it.

7 Q. Okay. And that was to report  
8 to begin the process of --

9 A. Of training.

10 Q. -- training and completing  
11 paperwork and that stuff?

12 A. Yes, I completed a lot of  
13 paperwork.

14 Q. Okay. And then we got a  
15 number on the right 36116. What does  
16 that mean?

17 A. That -- that is a zip code,  
18 that Montgomery route, that is the zip  
19 code of that route.

20 Q. Who told you that?

21 A. Well, Kent told me that.

22 Q. Okay. So, this wasn't  
23 something written on this piece of paper

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1 months -- three week month entry, I see  
2 S --

3 A. That's State Farm.

4 Q. -- Farm.

5 A. That was the phone number to  
6 my wife.

7 Q. And then Jeff White, a 404  
8 number?

9 A. Yes, sir. That was --

10 Q. Is that something written down  
11 later?

12 A. Yes, sir. It actually was.

13 That was the number to Kent's boss or  
14 Stan's boss.

15 Q. Whom you called much later in  
16 the process?

17 A. Yes.

18 Q. And then below that we have  
19 Tuesday, hyphen, 6 p.m., ground second  
20 front on right; what does that mean?

21 A. That was when I was to report  
22 at the terminal here in Montgomery. It  
23 says 6 o'clock in the morning, and that

1 the presentation day when Stan was there?

2 A. No, sir.

3 Q. All right. Was anything  
4 else -- well, no. I withdraw that.

5 Then we have motel plus  
6 Birmingham plus kids. What does that  
7 mean?

8 A. I don't know. It was probably  
9 something to jog my memory about my kids,  
10 but when I was going to be -- well, just  
11 the motel Birmingham -- I was just doing  
12 some --

13 Q. Just doodling?

14 A. Doodling, I guess, on that to  
15 jog my memory.

16 Q. What about underneath the next  
17 line there, we have a 1-800 number for  
18 Joe McConnell. Was that something that  
19 was written down the day of --

20 A. That was --

21 Q. -- the seminar?

22 A. No, that was after I went to  
23 the -- before I ever went to Birmingham,

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1 I went to the terminal to see Stan  
2 because I had to go to the terminal. I  
3 had to do paperwork there, and I got this  
4 information on who to contact at the  
5 Birmingham -- Birmingham terminal where I  
6 was going for training, and he gave me  
7 Joe's number. He gave me the 1-800  
8 number there.

9 Q. All right. And, then, to the  
10 left of that, we have FedEx B'ham, and  
11 then -- what was that all about, those  
12 entries there, and then it says M-O-R-I-O  
13 or M-A.

14 A. That's Mario. He was a -- he  
15 was an individual at the Birmingham  
16 terminal that I called to confirm  
17 everything, and that's who I spoke to, so  
18 I just wrote his name down.

19 Q. Yes. And then to the left of  
20 our exhibit sticker here, we have  
21 March 29th, Joe, 423-296-0253. What's  
22 that about?

23 A. I had talked to Joe --

1 really don't know.  
2 Q. All right. And then to the  
3 right of that we've got more Joe  
4 McConnell numbers, it looks like. Is  
5 that what those are?

6 A. Yes, sir. That's just a --  
7 other than the 1-800 number.

8 Q. All right. And then back,  
9 next line down, two open, eight day.  
10 What does that mean?

11 A. I have no clue. I don't know.

12 Q. Is that your handwriting,  
13 though?

14 A. Yes, sir, it is.

15 Q. And then flip the page over,  
16 if you would. What is -- what's the  
17 significance of these items? Just start  
18 on the top line. We've got a 404 number,  
19 which I know is Atlanta.

20 A. That was a -- when all this  
21 was coming down, they were trying to tell  
22 me they wanted me to be a contractor out  
23 of Anniston, Alabama. DC, these are

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1 Q. Is this Joe McConnell?

2 A. Yes, it's Joe McConnell -- on  
3 a couple of occasions to see what was  
4 actually going on because I was getting  
5 the runaround as far as asking questions,  
6 and nobody seemed to know as far as my  
7 paperwork being processed and stuff, so I  
8 knew that Joe -- I knew that Joe was  
9 coming from Birmingham to Montgomery kind  
10 of -- until the transition with Kent took  
11 place.

12 Q. Yes.

13 A. And I knew he was the go-to  
14 man, so that's the reason why I was  
15 calling him.

16 Q. All right. And then  
17 underneath the sticker we have in  
18 brackets 24 January?

19 A. Right.

20 Q. What was the significance of  
21 that?

22 A. Actually that may be the date  
23 the session was held on. If not, I

1 actually the -- the first and last  
2 initials of a recruiter for FedEx, and  
3 this -- I believe this may have been his  
4 cell number or a number that I could  
5 locate him because he had called and  
6 wanted to talk to me and left his number.

7 Kelly Womble --

8 Q. When was that?

9 A. That was -- that was after  
10 May. Because that's when they were  
11 asking me about going to Anniston, and  
12 that was just -- there was no way that  
13 was feasible, so I turned around and I  
14 called the terminal manager in Anniston.

15 Q. Kelly Womble?

16 A. No, Tony DeRosa.

17 Q. Okay.

18 A. And --

19 Q. 256 looks like that might be  
20 an exchange over there.

21 A. And Tony didn't have a clue to  
22 what I was even saying. He said that  
23 will never happen, Charlie. The route

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1 that they are offering you, I already  
2 have a guy trained. As a matter of fact,  
3 that guy that was training for that  
4 particular route was the one who wound up  
5 purchasing my truck. But they were  
6 saying, oh, we've got one in Anniston,  
7 but it just wasn't feasible.

8 Q. Okay. So, your point is that  
9 you had talked to Tony DeRosa who told --  
10 what about -- who is Kelly Womble?

11 A. She's a lady that worked in  
12 his office, that answered the phone that  
13 day.

14 Q. Okay. So, when you talked to  
15 Tony, you just had the conversation you  
16 just described?

17 A. Right.

18 Q. Where he said, no, in fact,  
19 there wasn't an opportunity there or --

20 A. Exactly right. He said there  
21 was no opportunity there. He didn't know  
22 what -- he didn't even know why they was  
23 even approaching me with that

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1 opportunity, that there was no  
2 opportunity.

3 Q. All right. But in any event,  
4 you said that was not practical for you  
5 to have a route in Anniston?

6 A. Not living in Elmore County.

7 Q. All right. Well, let's --  
8 let's -- let's look at this next -- this  
9 is a one, two, three, four --

10 MR. NELMS: Is that original?

11 MR. SPOTSWOOD: Yeah.

12 A. Oh, the name of that  
13 individual, Joe -- I'm sorry. Bob.

14 Q. Yes.

15 A. DC, it was Darrell Clark.

16 Q. Darrell Clark, okay.

17 A. Darrell Clark.

18 Q. What are you looking at there  
19 that answered that question for us?

20 A. Well, this is looking at --  
21 this was a meeting that FedEx had on  
22 6/14/05, and it was held by Tricia Jones  
23 and Darrell Clark, and I believe Kent was

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1 doing the one in the evenings, and this  
2 is some notes I wrote down, MVR, DOT  
3 background check, Tuesday through  
4 Saturday, which was the schedule that you  
5 worked. Home delivery. Peak -- they  
6 spoke about the peak season, holiday,  
7 home base. They said 60 to 65 a year and  
8 over.

9 When I went into the meeting,  
10 and there is a tape on this, I asked them  
11 specifically about routes. Darrell  
12 Clark, his reply to me -- and if they had  
13 any contractors that were waiting. He  
14 said, yes, we have an individual waiting,  
15 but this individual is very picky in what  
16 he is wanting, and I knew all along that  
17 they was -- they probably were talking  
18 about me.

19 Q. So, where did this meeting  
20 take place?

21 A. At the Holiday Inn.

22 Q. So, you went to the advertised  
23 informational session like the one you

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1 had attended for Stan?

2 A. Yes, I did.

3 Q. And this is obviously after  
4 you had filed your lawsuit. And I take  
5 it Darrell Clark had no clue who you  
6 were?

7 A. No, sir, he did not.

8 MR. NELMS: By the way, just  
9 for the record, he didn't do this per my  
10 instructions.

11 Q. How many people were at this  
12 meeting?

13 A. Probably half a dozen.

14 Q. Okay. If I heard your  
15 testimony correctly, they said that there  
16 was a person kind of in line, but that  
17 person was very picky, and you figured  
18 they were talking about you?

19 A. I assumed they were, they were  
20 talking about me. They said they had a  
21 gentleman.

22 Q. So, what is the significance  
23 of 60- to 65-year and over? What does

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1 that mean?

2 A. Oh, 60 to 65,000 and over  
3 income.

4 Q. I see. As opposed to, you  
5 know, before expenses?

6 A. Oh, they didn't say that.

7 Q. But that would be consistent  
8 with what you wrote down from the first  
9 meeting, 50 to 75, less expenses.

10 A. Yeah, that's right.

11 Q. Isn't that what Stan had told  
12 you?

13 A. Yeah, he said 50 to 75 a year  
14 income. He didn't say less expenses.

15 Q. All right.

16 A. Expenses -- but, yeah.

17 Q. All right. And then was it  
18 your -- your note here says peak season,  
19 holiday, home base. What's the  
20 significance of that comment?

21 A. It was just -- there was no  
22 significance. They were going over the  
23 peak season of the year, which is during

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1 the holidays.

2 Q. During the Christmastime?

3 A. Right.

4 Q. And home base, what was that a  
5 reference to?

6 A. Just home terminal, in the  
7 area that you lived.

8 Q. Okay. And what we've been  
9 talking about are the notes reflected on  
10 Defendant's Exhibit X here, correct?

11 A. Correct.

12 (Whereupon, Defendant's  
13 Exhibit X was marked for  
14 identification.)

15 Q. Was there some sort of a  
16 sign-up sheet at these meetings?

17 A. No, sir.

18 Q. So, if somebody wasn't  
19 interested, they didn't have to leave any  
20 indication of having attended?

21 A. It was not -- I did not see a  
22 sign-up sheet --

23 Q. Okay.

1 A. -- when I went in.

2 Q. Anything else on those yellow  
3 sheets --

4 A. No, sir.

5 Q. -- or is that unrelated to the  
6 litigation or your communications with  
7 anybody at FedEx?

8 A. No.

9 MR. NELMS: Off the record.  
10 (Off-the-record discussion.)  
11 (Whereupon, Defendant's  
12 Exhibit Y was marked for  
13 identification.)

14 Q. (BY MR. SPOTSWOOD:) Yeah, let  
15 me -- this is -- it says Iraq and then it  
16 says career?

17 A. Well, I had a son that was  
18 over there in Iraq fighting.

19 Q. Right.

20 A. And that was a -- actually  
21 that has to do with some kind of access  
22 number that I had to use to be able to  
23 call him.

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1 Q. Okay.

2 A. So, I mean, you know, I'm just  
3 doing some doodling because he would  
4 e-mail me, and I would write stuff down.

5 Q. All right.

6 MR. NELMS: Keep that.

7 A. Yeah, I'm going to.

8 MR. NELMS: Put it in your  
9 pocket.

10 Q. Defendant's Exhibit Y here,  
11 these are your notes, correct?

12 A. Yes, sir.

13 Q. And it says job apps at the  
14 top, 6/13. It lists several items.  
15 What's the significance of this? Are  
16 these places that you were looking for a  
17 job?

18 A. Yeah, I had contacted some of  
19 these people. I had contacted Dixie  
20 Homecrafters because I knew this guy  
21 there. Friendly Ford. You know,  
22 Wal-Mart in Prattville, I don't know what  
23 that really is, if it was a contact.

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1 Dairy Fresh, Farmers Ranch and Health,  
2 because this guy had called and left his  
3 number, and he's -- he could see from my  
4 resume where I had sold insurance.

5 Q. Yes.

6 A. But because of this situation,  
7 my insurance, I've lost my insurance  
8 license, and I told -- you know, I spoke  
9 to him, and I told him I can't do that  
10 now. I'd have to go back and retest and  
11 everything.

12 And then this is the meeting  
13 that I went to on the 12th. And I don't  
14 know -- okay. This is -- well, this was  
15 DHL.

16 Q. So, this was the meeting you  
17 went to in connection with getting a job  
18 at DHL?

19 A. Yeah, I assume it is.

20 Q. Okay. By the way, I looked  
21 further at the W-2, the best I could read  
22 it. It looks like you might have been  
23 working for one of the contractors for

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1 Ozark. Ozark was a franchisor or or  
2 franchisee of --

3 A. DHL.

4 MR. NELMS: -- DHL.

5 MR. SPOTSWOOD: We've got  
6 three or four pages on this one, and we  
7 might want to make a quick copy of this  
8 so you can follow along with me.

9 (Off-the-record discussion.)

10 (Whereupon, Defendant's  
11 Exhibit W was marked for  
12 identification.)

13 Q. (BY MR. SPOTSWOOD:) I'm  
14 looking at Exhibit W, Mr. Thornton, which  
15 is four pages of handwritten notes, I  
16 think, that are in your handwriting,  
17 correct?

18 A. Yes, sir.

19 Q. Okay. At the top of the first  
20 page, can you tell me what that's about,  
21 that reference to Curtis and just copay?

22 A. Yes, that was an individual at  
23 Mega Life and Health where I put an

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1 DHL rather than for DHL?

2 A. They are contractors.

3 Q. Okay. So, they have a similar  
4 situation to FedEx, their drivers are  
5 independent contractors, and then those  
6 contractors can hire employees to work  
7 for them?

8 A. No, sir. It's -- it's  
9 different from that. What it is --

10 Q. Well, who were you working for  
11 is what I'm asking you?

12 A. Well, I was working -- I guess  
13 you would say it's Ozark Delivery. He's  
14 a franchise. The guy -- an individual  
15 purchases a franchise, and that's the way  
16 DHL works, and then they work under the  
17 DHL umbrella. Everything is labeled DHL.  
18 It was actually Ozark Delivery Service or  
19 something like that. But it's not like a  
20 driver. He was not a driver.

21 Q. I understand. All right.

22 MR. NELMS: Just so I  
23 understand. SO, you were an employee of

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1 inquiry in as far as receiving health  
2 insurance through Mega Life. That was  
3 the individual I contacted. And it says  
4 tonight or Friday. That was a time that  
5 they had available that they could come  
6 set -- visit with me and the wife as far  
7 as doing the insurance.

8 Q. Okay. That was a health  
9 insurance policy that you were going  
10 to --

11 A. We took it out.

12 Q. -- consider or took out?

13 A. Yes, that's right.

14 Q. All right. What's the next  
15 sentence?

16 A. Willie Durham?

17 Q. Yes.

18 A. Willie -- Willie Durham is the  
19 agent that my wife actually works for who  
20 owns the State Farm franchise.

21 Q. Yes.

22 A. He had called me on that day  
23 to offer me the job as far as an agent

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1 working for him. Well, at that time I  
 2 had bigger and brighter plans, and that's  
 3 when I recommended my wife to him.

4 Q. Okay. And then underneath  
 5 here we have Alfa, bi-monthly and then  
 6 have some --

7 A. That's just basically  
 8 information from Alfa on health  
 9 insurance.

10 Q. And then the next entry here?

11 A. That was my van number. It  
 12 says Workhorse truck. And that was the  
 13 cost of the Workhorse van, and 72 months  
 14 down payment or down, and I don't know  
 15 what those figures are. But, anyway, it  
 16 figures up to be what the -- I was going  
 17 to be paying per month and all that good  
 18 stuff.

19 Q. All right. And then I see  
 20 some figures on the bottom here about Tim  
 21 Edmunds and contractor relations. This  
 22 is -- this was, I take it, late in the  
 23 game when you were in the process of

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1 this conversation with Richard Gene,  
 2 correct?

3 A. I assume that I -- I know I  
 4 recorded a conversation with Mr. Gene.

5 Q. From the looks of the  
 6 transcript, you left a message. I'm  
 7 looking at Exhibit R. It looks like you  
 8 left a message for him, and then he  
 9 called you back, and your actual phone  
 10 call with Mr. Gene is found on page 45 of  
 11 that transcript. I'm sorry. 41 -- no,  
 12 45. That's correct.

13 A. (Examining document.)

14 Q. Does that look right?

15 A. Yes, sir.

16 Q. And then your note here, it  
 17 says talk to on 5/18/05, so would it  
 18 be -- would that help us figure out that  
 19 this conversation that was recorded  
 20 happened on 5/18/05?

21 A. Yes, sir. That's my  
 22 handwriting. I put that down.

23 Q. All right. And you don't

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1 trying to figure out what your situation  
 2 was with the van, correct?

3 A. Well, it says talk to -- I  
 4 talked to him on 5/18. I -- yes. It was  
 5 around the 18th of May, and then he gave  
 6 me my -- that's when I got my -- the ID  
 7 number and my work area number.

8 Q. And as I recall, we're talking  
 9 about Richard Gene. It's written down  
 10 here. I don't know how -- which is the  
 11 correct spelling, but your conversation  
 12 with Richard Gene. You actually had more  
 13 than one was -- we have it as J-E-A-N,  
 14 and you have it here as G-E-N-E, correct?

15 A. Well, I may be -- I may be  
 16 wrong.

17 Q. I don't know which one of us  
 18 is correct on that.

19 A. I don't know.

20 MR. NELMS: You both may be  
 21 wrong.

22 A. That's true.

23 Q. And you would have recorded

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1 recall, do you, any other conversation  
 2 other than the one conversation you had  
 3 with Mr. Gene or -- actually there's  
 4 another one reflected on the tape here.  
 5 It's Richard Gene 131. Let me see if you  
 6 actually spoke with him then. I saw -- I  
 7 do see in the transcript that you had a  
 8 relatively short conversation with him on  
 9 pages 131 and 133. This is the third  
 10 entry here -- and you do say these calls  
 11 were made on the 19th of May, so I take  
 12 it --

13 A. Well, this -- the particular  
 14 time I took these notes here, they were  
 15 made on the 18th.

16 Q. Right.

17 A. 5/18.

18 Q. And I think there was a long  
 19 conversation on one occasion?

20 A. Apparently so, yes, sir.

21 Q. And then you called him back?

22 A. Yes, sir.

23 Q. And -- or you left him a

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1 message, he or one of the two of you.  
2 No, you reached him. Well, actually, no,  
3 it looks like you left him a message.  
4 That's what you did on that time.

5 So, maybe that was the only  
6 occasion, according to those transcripts,  
7 that you actually talked to Gene was that  
8 one time. You left him two messages. Do  
9 you have any recollection of talking to  
10 him more than once personally?

11 A. No, sir, I don't. I know I  
12 spoke to him -- I know I spoke to him. I  
13 don't know --

14 Q. And this note reflects, then,  
15 that would have been on the 18th of May?

16 A. Yes, sir.

17 Q. All right. Do you know what  
18 work area is defined by these numbers on  
19 this sheet, 112-069?

20 A. No, sir, I do not.

21 Q. And then the top of page two  
22 of Exhibit W, we have referenced a truck,  
23 668 -- truck insurance, 668. Was that

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1 how much your truck insurance was per  
2 year?

3 A. I -- well, I'm not really  
4 sure. It may be a -- it's possible. I'm  
5 not really sure. I know it says truck  
6 insurance \$668.

7 Q. Okay.

8 A. I'd have to look at the  
9 policy.

10 Q. All right. And then I see  
11 reference to your lawyers here. I know  
12 who they are.

13 A. Yes.

14 Q. Who is Patrick Hale?

15 A. He was an attorney that  
16 recommended Andy.

17 Q. And then down below that I see  
18 Jeff White. Who is Jeff White?

19 A. That, I assume, is the -- he's  
20 either an engineer with FedEx or Kent's  
21 boss. I'm not really sure.

22 Q. And is that -- is -- the very  
23 first conversation recorded on Exhibit R

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1 is listed as a phone call to Jeff White,  
2 and you -- actually, it doesn't look like  
3 you spoke to Jeff. You spoke to somebody  
4 by the name of Cheryl and left a message  
5 for Jeff.

6 A. You mean Exhibit O?

7 Q. Yes, just looking at the first  
8 two pages of that.

9 A. Oh, yes. I see. I know you  
10 said R. I was looking for R.

11 Q. Oh, yeah. Sorry about that.

12 A. Yes. That's correct. I  
13 assume Cheryl was the office or someone.

14 Q. Do you recall speaking to Jeff  
15 White?

16 A. Oh, sure, I spoke to Jeff  
17 White maybe a couple of occasions.

18 Q. And what did you talk to Jeff  
19 about?

20 A. I don't recall. I'd have to  
21 go back to the transcripts to look in  
22 there.

23 Q. I don't see any recorded

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1 conversations with Jeff White.

2 A. I know on one occasion I spoke  
3 to Jeff. This was the Saturday -- I  
4 don't recall the date, but the Saturday  
5 of the week I was supposed to start work  
6 and because I was wanting to know what  
7 was going on, and he said at that time he  
8 was going into a meeting and he had all  
9 of my paper -- all of my paperwork into  
10 the meeting, and he would get back in  
11 touch with me the following week. And I  
12 never heard from him.

13 Q. And is that what prompted you  
14 to call him on this occasion where you  
15 recorded the effort to reach him?

16 A. It may be that -- possible  
17 that that's it.

18 Q. Okay.

19 A. But I -- because I know before  
20 I recorded these I had had conversations  
21 with Jeff to find out what was going on.

22 Q. Okay.

23 A. Because I didn't know what to

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1 do. I didn't know what to do.

2 Q. And you have some notes down  
3 here underneath the Jeff White phone  
4 number on this Exhibit W, page two. Were  
5 those the things that you were going to  
6 tell him about if you reached him, is  
7 that sort of your outline of topics?

8 A. It may have been. It may have  
9 been. Or I know it was some things I put  
10 down on paper pertaining to the  
11 situation.

12 Q. And then below those we have  
13 this note: "Spoke to Omar Newman on the  
14 20th. Jim French, regional director."

15 Was that the 20th of May?

16 A. It would have been.

17 Q. And do I understand from this  
18 that he told you to contact Jim French, a  
19 regional director, or --

20 A. Yes.

21 Q. Did you do that?

22 A. I believe I tried. I'm -- I

23 really don't remember if I had a

1 A. Yes.

2 Q. -- would you have recorded the  
3 fact that you called him and left him a  
4 message?

5 A. I would have -- yes, I would  
6 have. If I would have had a number, I  
7 don't -- I don't -- Omar may have -- I  
8 really don't think I had a number for  
9 Jim. I think Omar was going to have him  
10 call me, if I recall correctly. If I had  
11 had a number for him and would have  
12 called, I would have definitely have  
13 recorded it because I may have got him on  
14 the phone.

15 Q. All right. And then on the  
16 top of the next page we have an address  
17 1015 Seaton Court, Montgomery, 36116. Is  
18 that Kent's home address?

19 A. It may be. I'm --

20 Q. I recall from the transcript  
21 that you -- that you asked him what his  
22 home address was.

23 A. Okay. Yes. I remember now.

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1 conversation with Jim or not.

2 Q. I don't see any transcript of  
3 it. I'll say that.

4 A. Okay. But it's possible that  
5 I left a message for him to call, and I  
6 never heard from him.

7 Q. And these other transcripts do  
8 reflect when you left messages, so I  
9 guess you just didn't record that, if, in  
10 fact, you called him?

11 A. If I would have heard from  
12 him, I would have recorded it.

13 Q. All right. And would you have  
14 recorded it if you had left him a message  
15 on or after the time you started making  
16 these conversations, recordings?

17 A. Ask that again.

18 Q. That was a pretty botched up  
19 question.

20 A. Oh, that's fine.

21 Q. If you had called him on or  
22 after the dates when you started making  
23 these recordings --

1 Yes. Yes.

2 Q. Okay. So, this is what you  
3 were writing down while you were on the  
4 phone with him recording the  
5 conversation?

6 A. Yes.

7 Q. Okay. And then underneath  
8 that it says letter to Kent and then --  
9 that's number one, and then two, Jeff. I  
10 understand letter to Kent. What does  
11 two, Jeff mean. Paren two, Jeff?

12 A. This was pertaining to my  
13 truck payment.

14 Q. Okay.

15 A. I remember that. And --

16 Q. Jeff White then, is that who  
17 you're referring to there?

18 A. Yes. Yes.

19 Q. And that was kind of the  
20 action plan, you were going to write a  
21 letter to Kent, and then you were also  
22 going to get in touch with Jeff?

23 A. Well, I -- yes.

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1       Q. If you want to explain, I'm  
2 interested in it.

3       A. No, I'll wait for a question.

4       Q. Okay. Then to the right it  
5 says make a case, paren, write it out,  
6 close paren, history and present. What  
7 does that refer to?

8       A. That was some notes I was just  
9 writing when I was -- after I talked to  
10 Andy.

11      Q. Oh, okay. Then, underneath  
12 that we have route given to -- I'm having  
13 a little trouble reading this?

14      A. Yes.

15      Q. Could you decipher that for  
16 me?

17      A. Yes. It says given -- says  
18 route given to Tina. That's the  
19 Montgomery route. That's 36116. Isaac,  
20 which was training for Troy, he accepted  
21 that. When I was there, he didn't know  
22 if he was going to take it, and Kent  
23 didn't know if he wanted him to have it.

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1 And then Wetumpka, the Elmore/Wetumpka  
2 route that I was -- well, actually it was  
3 given to Pettaway. I don't even remember  
4 Pettaway's first name.

5       Q. Okay. And then the next thing  
6 you have written down here is advertise  
7 to sell truck?

8       A. Right. That was something  
9 that Andy told me I needed to do, which I  
10 understood that I had to start some type  
11 of advertisement. How are you going to  
12 sell a FedEx truck, though? But that was  
13 just a note.

14      Q. And you wrote down two year  
15 contract?

16      A. Right. That was pertaining to  
17 the conversation with Kent.

18      Q. All right. And then we've got  
19 a one -- I can't tell if --

20      A. 1-800 or -- I don't know what  
21 that number is.

22      Q. All right. Do you know who it  
23 is or --

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1       A. No, sir, I don't.

2       Q. And then it says SS and  
3 driver, or diver, rather?

4       A. I don't know. I don't -- I  
5 don't recall.

6       Q. All right. And then the last  
7 page here, can you explain those entries  
8 for me?

9       A. No, sir, I really don't. It  
10 was something that I just -- I wrote down  
11 there to jog my memory pertaining to  
12 something. I guess it took place on the  
13 14th of April and had to do with a truck  
14 and insurance. I don't know why I put  
15 paid also on there, but anyway. I don't  
16 recall.

17      Q. All right.

18      MR. NELMS: Let's break for a  
19 minute.

20      MR. SPOTSWOOD: Absolutely.  
21 (Said deposition was in recess  
22 at 1:30 p.m. until 1:45 p.m.,  
23 after which the following

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1       occurred:)

2       Q. (BY MR. SPOTSWOOD:) What  
3 specifically did Mr. Trott say at your  
4 information session about a route, if you  
5 can remember, apart from what's written  
6 on your notes that we've already talked  
7 about?

8       A. Well, that -- that was -- that  
9 was my biggest concern, and after the  
10 meeting -- after the meeting, we actually  
11 met with Stan in the lobby, my wife and  
12 I, and we asked him more questions. And  
13 he specifically said that they -- being  
14 specific as far as what he was telling  
15 us, that there was three available out of  
16 the terminal in Montgomery. And which he  
17 had already named them. And I was  
18 telling him, hey, that would be -- you  
19 know, the Wetumpka/Elmore route would be  
20 great because I live in Elmore County. I  
21 know Elmore County, and I just thought  
22 that that was just a Godsend, and  
23 basically that was -- I didn't push it

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1 any further. There was no need. He was  
2 telling us that there were three routes  
3 available.

4 Q. Okay.

5 A. Or two, possibly three,  
6 because of the other guy in -- with Troy.

7 Q. Did he make any specific  
8 reference to any of the other drivers at  
9 that time, Derrick Pettaway, for example?

10 A. No, sir.

11 Q. All right. And he said that  
12 there are routes available, might be  
13 routes available?

14 A. There are.

15 Q. May be routes available?

16 A. No, sir.

17 Q. What was his exact  
18 terminology, if you can remember?

19 A. There are three -- two to  
20 three routes that are available in the  
21 Montgomery terminal.

22 Q. Yes.

23 A. They were not sure about Troy,

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1 those routes were going to be available  
2 to you if you get through the training?

3 A. It was a definite. I viewed  
4 it as a definite.

5 MR. PARKER: Definite what?

6 Q. No, no. I do need an  
7 explanation of that terminology. You  
8 viewed it as a definite. A definite  
9 what?

10 A. Well -- okay. When he was  
11 telling us that they are available --

12 Q. Yeah.

13 A. -- there's two available,  
14 possibly three that are available.

15 Q. Yes.

16 A. But you've got to meet this  
17 certain criteria. I knew that I could  
18 meet the criteria.

19 Q. Right.

20 A. It was just up to knowing  
21 which one I would accept.

22 Q. Did you feel that if those  
23 routes changed or, you know,

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1 but they knew that 36116 and  
2 Wetumpka/Elmore, Elmore County, those  
3 routes were available.

4 Q. All right.

5 (Off-the-record discussion.)

6 Q. (BY MR. SPOTSWOOD:) And when  
7 you say the routes were available, aren't  
8 you necessarily talking about these  
9 routes would be available in the future  
10 if you were successful in completing your  
11 screening and your training?

12 A. Everything hinged on being  
13 successful. That doesn't mean that the  
14 routes were not still available to  
15 someone. But I was successful.

16 Q. Right. And did you -- did he  
17 tell you whether or not others might wind  
18 up with those routes?

19 A. No, sir, it was never  
20 mentioned to me.

21 Q. All right. So, are you saying  
22 here today that you viewed what Mr. Trott  
23 said to you that day as a promise that

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1 circumstances were different at the time  
2 that you finally had become qualified  
3 that it would have been wrong or unfair  
4 for those routes not to be given to you?

5 A. Sure. At -- now, state your  
6 question again.

7 Q. Yeah.

8 MR. NELMS: Object to the  
9 form.

10 Q. Did you feel -- you know, here  
11 you go. You go to an informational  
12 session. You haven't been to the first  
13 leg of training. You have not signed a  
14 contract, you have not demonstrated  
15 yourself to be qualified to do anything  
16 for FedEx, yet, if I'm hearing you  
17 correctly, what you're saying is the  
18 moment you walk out of that room in your  
19 mind you had a contract with FedEx to  
20 give you a route?

21 MR. NELMS: Object to the  
22 form.

23 A. No.

46 (Pages 181 to 184)

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1 Q. That's not what you're saying?  
 2 A. No, that's not what I'm  
 3 saying.

4 Q. All right.  
 5 A. I'm saying that if Charlie  
 6 went through the process, which a  
 7 contract was never mentioned, I will  
 8 state that, but if I went through the  
 9 training that FedEx wanted you to go  
 10 through, if I jumped through all the  
 11 hoops that they had aligned, that, of  
 12 course, I would have a route because  
 13 there were two, possibly three routes open  
 14 for a contractor. That is the reason why  
 15 they had the informational session.

16 Q. Did he tell you that's why he  
 17 had the informational session?

18 A. Yes.

19 Q. Did he not say that they liked  
 20 to have people lined up --

21 A. No, sir.

22 Q. -- in the pipeline?

23 A. No, sir. That never ever came

1 form.  
 2 MR. SPOTSWOOD: Too late.  
 3 (Off-the-record discussion.)

4 Q. (BY MR. SPOTSWOOD:) Look with  
 5 me, if you would, at Defendant's Exhibit  
 6 L.

7 A. L.

8 MR. NELMS: I think I have L.  
 9 One second. Let me get it for you.

10 Q. These are the documents, I'll  
 11 tell you, that were produced by FedEx as  
 12 a part of its initial disclosures in the  
 13 case.

14 (Whereupon, Defendant's  
 15 Exhibit L was marked for  
 16 identification.)

17 Q. And I want you to flip over  
 18 with me, if you would, to -- do you see  
 19 they are numbered at the bottom  
 20 right-hand -- it says FXG and then  
 21 numbers on the bottom of the page?

22 A. Yes, sir.

23 Q. I want to look at the

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1 up.

2 Q. Never occurred to you that  
 3 FedEx would have a desire to have  
 4 qualified, trained people lined up in the  
 5 event openings were available?

6 MR. NELMS: Object to the  
 7 form.

8 A. No, sir. No, sir. It was  
 9 never put that way. They needed people  
 10 to go to work, to be contractors.

11 MR. NELMS: Answer his  
 12 questions.

13 Q. You said a contract was never  
 14 mentioned, but he was describing a job as  
 15 an independent contractor, correct?

16 A. Right, yes.

17 Q. And, so, didn't you understand  
 18 from that that eventually you would have  
 19 to sign a written contract?

20 A. No, I did not.

21 Q. You didn't understand that?

22 A. No, I did not.

23 MR. NELMS: Object to the

1 contractor driver information sheet which  
 2 goes on for a few pages. All right. Is  
 3 this something that you submitted to  
 4 FedEx? You might have done it online.  
 5 I'm not sure exactly how this works.

6 A. Yes.

7 Q. And let's look at the first  
 8 couple of pages here, 04, 05, 06. Did  
 9 you fill the information out here that's  
 10 reflected on those pages?

11 A. Yes, sir.

12 Q. You gave some references. Who  
 13 is Jeff Owens?

14 A. He's a friend of mine.

15 Q. What does he do?

16 A. As a matter of fact, he's  
 17 working with UniFirst now, same company  
 18 I'm with.

19 Q. All right. Mike Proper, what  
 20 does he do?

21 A. He was a sales manager. I  
 22 don't know where Mike is. I haven't  
 23 stayed in contact with him.

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1 Q. Where was he a sales manager  
2 at the time that you completed this?

3 A. American General.

4 Q. And Ray Harris, where was he a  
5 sales agent?

6 A. American General.

7 Q. Okay. Let's flip over to page  
8 07. This is the contractor driver  
9 information sheet, and on the left-hand  
10 side it says CDAS. Is this another  
11 document that you completed yourself?

12 A. Yeah.

13 Q. Did you do it online? Was  
14 this something --

15 A. Yes.

16 Q. -- that you sat at the  
17 computer and filled out?

18 A. Yes.

19 Q. Where?

20 A. At the terminal.

21 Q. All right. And then over on  
22 page ten, that's your signature there,  
23 1/14/05, is that correct?

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1 A. Yes, sir.

2 Q. And then the next document I  
3 have here is FedEx Ground -- this is the  
4 one -- actually I'm not sure where the  
5 Bates numbers are on this. Oh, here they  
6 are right here. It's on the sticker in  
7 the middle of the page FXG 11 and 12, 13.  
8 Are these other documents that you  
9 completed in connection with the  
10 contractor employment process?

11 MR. NELMS: I'm sorry. I  
12 didn't understand which pages you were  
13 actually referring to.

14 Q. It's 11, 12, 13. Yeah, they  
15 are in the middle here. See they are on  
16 the little stickies is what they are.

17 MR. NELMS: I don't see that  
18 one. Anyway, I'm --

19 A. Oh, I see 11. This must be  
20 11. This must be 12.

21 Q. Right.

22 A. Yes, sir.

23 Q. Okay. There's a little sticky

1 note on the top here, have repeated --  
2 have called repeatedly at 615-749-2198.  
3 Local number does not give out any  
4 information. Is that your handwriting or  
5 somebody else's writing?

6 A. No, sir, that is not mine.

7 Q. Do you know whose that is?

8 A. No, sir, I don't.

9 Q. Okay. What this apparently is  
10 is a reference questionnaire, and I take  
11 it what is going on is you completed the  
12 top part, is that right?

13 A. Yes, sir.

14 Q. And then they were trying to  
15 get information and they weren't having  
16 any luck is what I think is going on  
17 here.

18 As it stands, Trott, he was  
19 the one helping you through this process?

20 A. No, sir. There was a young  
21 lady, and I do not recall her name that  
22 got me set up on the computer to do  
23 everything --

1 Q. All right.

2 A. -- that I needed to do.

3 Q. All right. It does look like  
4 Stan is the one who was signing the  
5 documents down here on the 14th. Is that  
6 when you were completing these papers,  
7 January the 14th?

8 A. Yes, sir, apparently so.

9 Q. If we flip on back to 18 --

10 A. Okay.

11 Q. -- it says driver's receipt,  
12 and it says you're acknowledging the  
13 receipt of FedEx motor carrier safety  
14 regulations, which I think is --

15 MR. PARKER: They are in a bag  
16 behind Andy.

17 A. Yes, sir, that's that little  
18 manual or one of them.

19 Q. And is this the book that they  
20 gave you? I'm just going to mark that as  
21 Exhibit Z.

22 (Whereupon, Defendant's  
23 Exhibit Z was marked for

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1 identification.)

2 A. Yes, sir.

3 MR. SPOTSWOOD: And, Gary,  
4 I'll tell you right now I'm not  
5 interested in copying the whole book,  
6 just the cover page.

7 (Off-the-record discussion.)

8 Q. (BY MR. SPOTSWOOD:) I'm  
9 sorry. You answered that question?

10 A. Yes, sir, I did.

11 Q. And if you look with me on 19,  
12 document number 19, it says at the top  
13 Home Delivery Driver Qualification  
14 Control Form. That reflects that you  
15 were a full QPDL graduate as of  
16 apparently 1/21/2005. Had you completed  
17 all your training by then?

18 A. I don't know what QPDL stands  
19 for.

20 MR. GASTINEAU: Quality --  
21 quality --

22 Q. Let him answer.

23 MR. GASTINEAU: Pickup and

1 Summary.

2 A. Yes, sir.

3 Q. Was this form completed by  
4 you? Are these your signatures along  
5 here?

6 A. Yes, sir, these are my  
7 signatures.

8 Q. And is that Stan Trott's notes  
9 on the right or somebody else's, if you  
10 know, facilitator's signature line?

11 A. I do not recognize it. I  
12 would -- I do not recognize the  
13 handwriting. I don't know. I can't  
14 judge that. I know that that's me here.  
15 Right here.

16 MR. NELMS: And he points to  
17 the left side.

18 A. Somebody signed off here. I  
19 don't have a clue who that may be.

20 Q. And then over here on pages --  
21 page 25, we have a -- a Contractor/Driver  
22 Safety Instruction Summary.

23 A. Yes, sir.

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1 delivery training.

2 A. Okay.

3 MR. GASTINEAU: But the form  
4 was -- that's the day the form was filled  
5 out, and that's -- right after that,  
6 Charlie went to Birmingham to take the  
7 QPDL class.

8 Q. Okay. I know we're not  
9 supposed to have a round robin here.

10 MR. NELMS: I understand.

11 Q. But sometimes it's quicker to  
12 do that. So, is that what happened,  
13 after you filled that form out, you went  
14 to Birmingham and took the class?

15 A. Well, this is my first time to  
16 see this, but I -- yes.

17 Q. Okay.

18 A. I went to Birmingham.

19 Q. All right.

20 (Off-the-record discussion.)

21 Q. (BY MR. SPOTSWOOD:) I'm  
22 looking at page 23, which is the P & D  
23 Contractor/Driver Safety Instruction

1 Q. And these have various dates  
2 on them, 2/3/05, 2/15/05, 1/31/05 and so  
3 forth. Looks like the last one is  
4 2/3/05, and the facilitator is Omar  
5 Newman.

6 A. Correct.

7 Q. And what exactly did Omar do  
8 with you?

9 A. We had instructional training  
10 -- classroom training.

11 Q. And that was up in Birmingham?

12 A. Yes, sir, in Birmingham.

13 Q. And Omar was running the show  
14 up there?

15 A. Right. And then we had driver  
16 training out in the -- in Birmingham.  
17 And then we also had to --.

18 Q. Who rode around with you in  
19 Birmingham?

20 A. Well, there was -- there was  
21 two other fellows, and Omar.

22 Q. Do you remember the others?

23 A. No, sir, I don't remember

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1 their names. And then we had -- and  
 2 there was a young lady that also went  
 3 with us. Then we had -- had a driving  
 4 course that we had to drive over,  
 5 backing, turning, such as that. We had  
 6 to pass that.

7 Q. If we flip over to pages 27  
 8 and 28, have you ever seen this document  
 9 before? It's a record of a road test,  
 10 paren, safety ride, showing the observer  
 11 as Omar Newman, date of observation,  
 12 1/31/05?

13 A. No, sir, I have not seen this,  
 14 but I believe this is what he had -- was  
 15 checking off the day I was driving.

16 Q. All right. And then over here  
 17 on page 35, it looks like we have a order  
 18 form for business support contractors for  
 19 uniforms. Is that something that you  
 20 signed?

21 A. Yes, sir, I did sign that.

22 Q. All right. If we flip over to  
 23 pages 36 and 37, this says CRS (sic)

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1 It looks like it's dated -- I'm not sure  
 2 if that's 2/9/05 or 2/4/05, but what  
 3 is -- what was this?

4 A. This was actually observations  
 5 while I was driving, times that we were  
 6 in the field and I was driving and  
 7 delivering.

8 Q. Did you complete this, or did  
 9 Jermaine?

10 A. No, sir, Jermaine did.

11 Q. All right. What other  
 12 conversations did you have with Stan  
 13 Trott regarding whether or when you might  
 14 be successful in obtaining a contract for  
 15 a route? You told me about the  
 16 conversations that happened after the  
 17 meeting in January. What was the next  
 18 discussion you had with Stan about --  
 19 Stan about any route?

20 A. The only discussion I had with  
 21 Stan after the meeting was when I went to  
 22 the terminal, my wife and I had looked  
 23 this over, and I had decided that it was

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1 Observation - Critical Safe Driving  
 2 Behavior. I can't quite make out the  
 3 signature. Can you tell me who that is?  
 4 Is that --

5 A. Where -- where is the  
 6 signature?

7 Q. On page 37.

8 A. 37.

9 Q. On the left. That's the  
 10 signature of the observer.

11 A. I remember the young fellow,  
 12 but I --

13 MR. PARKER: Jermaine Wilson,  
 14 I think, Jermaine.

15 A. Yeah, Jermaine.

16 Q. Wilson?

17 A. Yeah, I know his last name was  
 18 Wilson.

19 Q. Okay.

20 MR. PARKER: With a J.

21 Q. Flip over, if you would, to  
 22 pages 39 and 40. This is called a  
 23 Primary Service Area Analysis Worksheet.

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1 something that I would like to pursue, so  
 2 I went to the terminal, and I met with  
 3 Stan at that time. And I mentioned the  
 4 Elmore route, Elmore/Wetumpka route, and  
 5 he said he didn't have a problem with  
 6 that, but there were things that we had  
 7 to go through to get everything started.  
 8 So, basically that's when he started on  
 9 all the paperwork.

10 The only other conversation I  
 11 had with Stan was he was asking me when I  
 12 was going to training, and after that I  
 13 don't really recall if Stan was there --  
 14 still there when I came back from  
 15 training or not. I don't think Kent was,  
 16 but I don't know if Stan was either, you  
 17 know. But I did, you know --

18 Q. So, you think you might have  
 19 had one other conversation with him --

20 A. About the --

21 Q. -- when you came back to the  
 22 facility here in Montgomery and completed  
 23 your initial application paperwork about

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1 a route?

2 A. Oh, yes, I met with him the  
3 day that I told him that I was very  
4 interested --

5 Q. Right.

6 A. -- to do the paperwork.

7 Q. Right.

8 A. And I made my request known to  
9 him at the time.

10 Q. And your --

11 A. He said that was -- that would  
12 be great. That's all.

13 Q. And your request was that when  
14 you became qualified you would want to  
15 have the route in Elmore County?

16 A. Correct.

17 Q. And how did you come to know  
18 that Stan Trott left or had retired?

19 A. He told us at the beginning of  
20 the informational meeting that he was  
21 going to retire, and that's how I learned  
22 -- because I had never met Stan before.

23 Q. Okay.

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1 A. He said he had three or four  
2 months left or something like that.

3 Q. Okay. And once Stan was gone  
4 from the scene, which from your testimony  
5 may have been at least by the time you  
6 returned to Montgomery after your  
7 training up in Birmingham, did you  
8 then -- did your contact then become Kent  
9 Gastineau?

10 A. No, sir, it was -- actually it  
11 was Joe McDonald -- Mc -- what was his  
12 name? I can't remember Joe's last name.

13 MR. GASTINEAU: McConnell.

14 A. McConnell. Right. It was Joe  
15 McConnell.

16 Q. What was Mr. McConnell's job?

17 A. He was the -- from what I  
18 understand, he was the terminal manager  
19 in Birmingham, and he was also working in  
20 Montgomery just back and forth.

21 Q. Okay.

22 A. I really -- I didn't know that  
23 much about him because I was on the move

1 doing things, but that's what I  
2 understand his position was until they  
3 could get an individual to fill the slot.

4 Q. Which was Kent?

5 A. Well, my understanding at the  
6 time that Kent was coming down to fill  
7 in -- or not fill in, but manage home  
8 delivery, whereas Stan was managing both.

9 Q. And you had expressed interest  
10 and were seeking to become qualified as a  
11 home delivery contractor, correct?

12 A. Yes, sir. Yes.

13 Q. All right. Apart from what  
14 you've told me, do you recall any other  
15 discussions you had with Mr. Trott?

16 A. No, sir. I think actually  
17 that was the last time I spoke to Stan.

18 Q. Okay. Did you ever have any  
19 discussions with Mr. McConnell or Mr.  
20 Gastineau about a driver in Troy by the  
21 name of George McKlinney -- I'm sorry,  
22 McKinley, M-C-K-I-N-L-E-Y?

23 A. No, sir. In Troy? Was that

1 -- was that your question, Bob?

2 Q. Right. He, as I understand  
3 it, was a driver from Troy up through  
4 December of 2004?

5 A. Oh, no, sir.

6 Q. You don't recall any  
7 discussions with anybody --

8 A. No, sir.

9 Q. -- with anybody about him?

10 A. The only person that I knew  
11 that was driving in Troy was a young man  
12 by the name of Isaac.

13 Q. And that's Isaac Scott?

14 A. I never knew his last name.

15 Q. Did anyone ever tell you or  
16 mention anything to you about the opening  
17 in Elmore County being dependent upon  
18 perhaps a change in staffing with Mr.  
19 Pettaway or a loss of one of his routes?

20 A. The only -- the only thing I  
21 knew about Pettaway was that he was  
22 driving -- he had a route in Millbrook.

23 Q. Yes.

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1       A. And that was all I knew that  
2 Pettaway had.

3       Q. Millbrook is in Elmore County?

4       A. It's in Elmore County.

5       Q. Right. And all you knew about  
6 it was what?

7       A. He had -- he had a route in  
8 the Millbrook area that may have went  
9 into Autauga County, Prattville, I don't  
10 know. But I knew he drove in Millbrook.

11      Q. Okay. What had you been told  
12 about the availability specifically in  
13 terms of an area, a geographic area about  
14 Elmore County, a route being available in  
15 Elmore County?

16      A. Basically, it was in the  
17 Wetumpka area.

18      Q. And who is talking to you?  
19 Who is telling you this?

20      A. Kent.

21      Q. Okay. So, when did Kent come  
22 onto the scene?

23      A. I do not recall the -- the

1 one other driver.

2       Q. Do you remember the name of  
3 that person? Was it a woman or a man?

4       A. It was a -- it was a -- it was  
5 a young man. I do not recall his name.

6       Q. And how many days did you ride  
7 with that other driver?

8       A. I don't actually recall the  
9 amount of -- the amount of days. I just  
10 do not. I'm sorry.

11      Q. Do you think you had more than  
12 two weeks total --

13      A. No.

14      Q. -- of --

15      A. No.

16      Q. -- training days?

17      A. Oh, yes, training days, but  
18 not with just one individual.

19      Q. All right. How many days --  
20 training days do you think you actually  
21 rode?

22      A. I can't recall. I can't  
23 remember.

dates.

2       Q. Was it in March? Was he in  
3 there part-time, full-time?

4       A. I do not recall the date. I  
5 do not know. I was too busy.

6       Q. What were you busy doing?

7       A. I was riding with not just  
8 this fellow Jermaine. I rode with other  
9 drivers. I -- you know, and Kent might  
10 have been there. I'm not sure.

11      Q. What were you doing when you  
12 were riding with other drivers? Is this  
13 more training or --

14      A. It was basically more -- more  
15 training.

16      Q. And when you were training  
17 with drivers, you were getting paid for  
18 that, right?

19      A. Yes.

20      Q. All right. I thought you had  
21 told me that -- that you -- who else did  
22 you ride with? You said --

23      A. I rode with one -- I rode with

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1       Q. 15, less than 15?

2       A. I do not recall, I mean.

3       Q. And where were you actually  
4 doing the rides with this other  
5 individual?

6       A. In the Montgomery area. I  
7 do -- I don't know what zip code.

8       Q. Things that are in a different  
9 area from the ones you did with Jermaine?

10      A. It was a different area. The  
11 one that I rode with Jermaine was  
12 actually El -- Wetumpka and 36116, the  
13 ones that were supposedly open. And then  
14 one other time Isaac was sick, and I ran  
15 his route in Troy.

16      Q. And did you do that by  
17 yourself, when you ran Isaac's route?

18      A. There was -- yeah, there was  
19 days that I went by myself, and there was  
20 days that Jermaine actually went with me.  
21 For what reason -- I don't know for what  
22 reason.

23      Q. And what -- how many times did

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1 you fill in for Isaac down in the --

2 A. Just one -- one time.

3 Q. -- Troy?

4 A. Yes, in Troy.

5 MR. NELMS: I don't understand  
6 something. You said that you went to  
7 Troy to cover the route, and sometimes  
8 Isaac went with you.

9 A. No, not Isaac. Jermaine.

10 MR. NELMS: Jermaine went with  
11 you. I'm sorry.

12 A. Yes, the customer service guy  
13 that was over this.

14 Q. Completing your paperwork --

15 A. Yes.

16 Q. -- and your training program?

17 A. Yes.

18 MR. NELMS: But you only  
19 covered that Troy route once.

20 A. Right, while Isaac was out  
21 sick with the flu or whatever.

22 MR. NELMS: And you went by  
23 yourself.

1 route.

2 Q. Did you at any point in  
3 time -- did at any point in time Kent ask  
4 you if you were interested in the route  
5 and you initially told him, no, you  
6 weren't, the route in Troy?

7 A. I never told him that I was  
8 not interested in the route, but  
9 preferably I was interested in close to  
10 home, the Elmore County/Wetumpka route,  
11 because I had --

12 Q. But didn't he at some point in  
13 time ask you if you were interested in  
14 taking the Troy route and you declined,  
15 said you really weren't interested in it?

16 A. No, sir, because I inquired  
17 through -- through Dodge Vans about  
18 buying a Sprinter van to run that route.  
19 And they sent me brochures.

20 Q. Isn't that because you changed  
21 your mind a week or two later and came  
22 back and said you might be willing to  
23 consider it?

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1 A. Yeah, when I say Troy, Pike  
2 County basically. I mean, it was a very  
3 rural -- rural -- rural route, so.

4 Q. What was your understanding of  
5 Mr. Scott's status when you were working  
6 towards obtaining a driver's position in  
7 February and March and April?

8 A. Who was Mr. -- who is Scott?

9 Q. Who you have been calling  
10 Isaac.

11 A. Oh, Isaac, what his position  
12 was.

13 Q. Was he working as a temp  
14 driver trying to get on as a -- as a  
15 contractor, or do you know?

16 A. I don't know what his status  
17 was. All I know is that from what I knew  
18 from Kent and talking to Isaac that that  
19 route had been offered to him, and he was  
20 in the feeling it out to see if he wanted  
21 to accept it. And Kent could never  
22 actually pin him down, and I even made  
23 reference to Kent. Kent, I'll take the

1 A. I was willing to take whatever  
2 route they was willing to give me.

3 Q. You weren't being picky in  
4 March?

5 A. Picky?

6 Q. Yes.

7 A. No.

8 Q. You didn't tell him at one  
9 point in time that you were not  
10 interested in Troy?

11 A. I told Kent that I was  
12 interested in Wetumpka, if I had a choice  
13 in the matter, but if I did not have a  
14 choice in the matter, I would take the  
15 Troy route. If I was not interested in  
16 it, I would have never inquired about a  
17 van and talked to Chad Primus about even  
18 financing a van.

19 Q. People change their minds  
20 every day.

21 A. Sure, sure, sure.

22 Q. You didn't go through a change  
23 of heart on this?

53 (Pages 209 to 212)

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1       A. No, I -- I left it open as an  
2 option.

3       Q. And I guess you've already  
4 said that Mr. Scott had been working for  
5 a period of weeks, I take it, as a  
6 temporary driver down there --

7       MR. NELMS: Object to the  
8 form.

9       Q. -- in Troy. Was that -- was  
10 that your understanding of what he was  
11 doing?

12      A. I have no idea. All I know is  
13 Isaac was running the route. I don't  
14 know if he was a temp -- I don't know if  
15 he -- I don't even know what -- I know  
16 nothing about Isaac except he got in that  
17 van every day and he headed toward Troy.

18      Q. Okay.

19      A. If he had been through the  
20 training process or not, I don't know.

21      Q. Okay.

22      A. I do not know.

23      Q. Do you recall having a

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1       A. It was already open in Elmore  
2 County. Kent didn't want Pettaway to get  
3 the Wetumpka route because Pettaway was a  
4 problem. He didn't keep his records on  
5 his truck. He was just a problem all the  
6 way around.

7       Q. What other kind of problems  
8 other than records?

9       A. I don't know. All I know is  
10 maintenance on the truck and such as  
11 that. I mean, I can't recall every --  
12 every conversation we had, but he did not  
13 want him to get that route. And he  
14 suggested that I go and get my map book.  
15 Why would I go to the --

16      MR. NELMS: Just answer his  
17 questions.

18      A. Okay.

19      Q. And how was it that Mr.  
20 Pettaway was going to get this route?

21      A. I don't know.

22      Q. Was he going to be able to  
23 expand his core territory or something

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1 conversation with Kent where he explained  
2 to you why he had given the Troy route to  
3 Isaac?

4       A. No, Isaac was already on that  
5 route when I came back from Birmingham  
6 training.

7       Q. I mean, giving him a -- giving  
8 him a contractor position on that route,  
9 not just driving it, but as a contractor?

10      A. The only thing I know from  
11 Kent concerning Isaac is that Kent could  
12 not pin the boy down and that he relayed  
13 to me that he was having problems getting  
14 financing on a van. And when he would go  
15 to him and say Isaac, what are your  
16 plans, what are your plans, are you going  
17 to take this route, he never would give  
18 him an answer. That's all I know.

19      Q. Did Mr. Gastineau ever talk to  
20 you about the possibility that something  
21 might open up in Elmore County depending  
22 upon, you know, how things played out  
23 with Mr. Pettaway?

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1 along those lines?

2       MR. NELMS: Object to the  
3 form.

4       Q. Did you have any understanding  
5 of that?

6       MR. NELMS: Object to the  
7 form.

8       A. I don't know. I don't know  
9 the procedure for getting an extra route.

10      Q. Now, you said that you  
11 understood that there was a route open  
12 over there in Elmore County. Who told  
13 you that?

14      A. Stan Trott.

15      Q. I'm talking about in your  
16 conversations with -- is it -- did Kent  
17 tell you that?

18      A. Stan Trott told me that it was  
19 open in the beginning.

20      Q. Right.

21      A. And it was just the same way  
22 with Kent. That was open.  
23 Elmore/Wetumpka, that area was open,

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1 36116 was open.

2 Q. You keep referring to 36116.

3 A. That's in Montgomery. That's  
4 a Montgomery route.

5 Q. And who was working that  
6 route?

7 A. My understanding, nobody. It  
8 was just being filled in.

9 Q. Temporary drivers were working  
10 it?

11 A. From what I understand, there  
12 was ground drivers doing home delivery  
13 service out there.

14 Q. Okay.

15 A. So, I mean, I didn't know all  
16 the ins and outs, you know. I took them  
17 for what -- their word.

18 Q. Well, that's what I'm trying  
19 to understand, precisely what it is that  
20 Kent told you was the situation in Elmore  
21 County, which is apparently what you said  
22 you were really interested in.

23 A. He told me that the Wetumpka

1 Q. Yeah.

2 A. The only discussions that we  
3 had was that I was available for either,  
4 and Isaac was still on the board. We  
5 didn't discuss that one that much because  
6 we knew what I was leaning toward. So,  
7 we discussed the Wetumpka route more than  
8 anything. We even went on the computer,  
9 and he pulled it up on the computer and  
10 showed me an outline of the territory  
11 there, where it went, into what -- next  
12 to what county, you know, it bumped up  
13 against and everything.

14 Q. Did you doubt that he was  
15 trying to do what he could to give you a  
16 hand and get you into that route?

17 A. I never doubted Kent for one  
18 moment. I thought the man was telling me  
19 the truth. I mean, I was excited about  
20 it.

21 Q. Okay.

22 MR. NELMS: Can we take a  
23 minute?

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1 route in Elmore County was open, that I  
2 needed to go to and purchase my map book.  
3 I went and purchased my map book.

4 Q. And that cost you how much  
5 money?

6 A. That was \$25.

7 Q. Yes.

8 A. He showed me actually a map  
9 book, what it looked like, and how it was  
10 gridded out from the 911 people. I went  
11 directly up there. I purchased it for  
12 \$25.

13 Q. And you got that from the  
14 police department?

15 A. It was not in the police  
16 department. It was emergency management  
17 office.

18 Q. What discussions did you have  
19 with Kent Gastineau about the route in  
20 Montgomery that you described just a  
21 moment ago?

22 A. We didn't have --

23 MR. NELMS: 36116?

1 MR. SPOTSWOOD: Yeah, sure.  
2 (Said deposition was in recess  
3 at 2:42 p.m. until 2:50 p.m.,  
4 after which the following  
5 occurred:)

6 Q. (BY MR. SPOTSWOOD:) Your  
7 complaint says that Kent Gastineau met  
8 with you on April the 19th of 2005,  
9 quote, to sign the contract for Elmore  
10 County, and that Mr. Gastineau said --  
11 stated, and I'm quoting from the  
12 complaint, quote, stated that there was a  
13 paperwork problem but that the route  
14 belonged, close quote, to you. Is that  
15 what he said to you?

16 A. Yes, sir.

17 Q. And you remember that  
18 specifically?

19 A. Yes, sir, I do.

20 Q. What was the paperwork  
21 problem?

22 A. I don't have a clue what the  
23 paperwork -- there were so many paperwork

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1 problems, that was one of the main  
2 issues, what -- why is there so many  
3 paperwork problems? I was always  
4 addressing that, always, why --

5 Q. Well, try to focus on my  
6 question here. This is apparently an  
7 important meeting. You've quoted it in  
8 the complaint, April 19th. You said  
9 there was a paperwork problem, but the  
10 route belonged to you. What specifically  
11 did he tell you -- I can see that you  
12 were upset about that. What did he tell  
13 you?

14 A. Basically it was out of his  
15 hands, and it had went up the chain of  
16 command, and several people had to sign  
17 off on that, and it was up the chain.

18 Q. Okay. Did he give you any  
19 specific explanation for what might have  
20 happened or --

21 A. No, sir, he did not.

22 Q. All right. Did he give you  
23 any assurances or say anything to you

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1 Exhibit V?

2 A. No, sir, I do not. My  
3 understanding was all my documents -- I  
4 don't even know what I was supposed to be  
5 signing off on that day, but I do know  
6 that my other documents were actually in  
7 other people's hands to be signed off on  
8 because I know that there was a  
9 procedure. Omar stated that to me. And  
10 he pulled it up on his file saying  
11 Charlie will sign off here, here, here  
12 and here. I'm just going by what they  
13 tell me.

14 Q. The complaint says that Mr.  
15 Gastineau gave you, quote, an official  
16 route book. Is that the book you went  
17 off and -- what are you talking about  
18 there, the book -- what's the official  
19 route book?

20 A. I have no idea what the  
21 official route book, what that's  
22 pertaining to.

23 Q. Okay. Well, it's your

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1 about his hope to get it worked out in  
2 the future?

3 A. No, he never used that  
4 terminology.

5 Q. What did he say to calm your  
6 nerves, if anything?

7 A. It was just a time, time  
8 factor, being on someone's desk. Omar  
9 Newman's desk had to sign off on it, and  
10 there were some other individuals that  
11 had to sign off on it, and they just --  
12 just in passing had not signed off on it.

13 Q. On April the 19th, did he sit  
14 down at the computer and attempt to print  
15 off a contract for you, do you know?

16 A. No, there was a time on the  
17 computer that we were trying to get some  
18 type of document, and we couldn't access  
19 it through the computer.

20 Q. Do you know whether or not  
21 that document was, in fact --

22 A. No, I do not.

23 Q. -- the contract that's here in

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1 complaint. I know you didn't write it.

2 A. Maybe it was the map book.

3 Q. Is that what you think you're  
4 thinking about as the official route  
5 book, perhaps?

6 A. Possible.

7 Q. Okay. The complaint says and  
8 at this time you were, quote, encouraged  
9 to continue working toward preparing for  
10 the time when he would work the Elmore  
11 County route. That's a quote out of your  
12 complaint. Is that what he said to you?

13 MR. NELMS: That's terrible  
14 language. Whoever wrote that needs to --

15 Q. Did he give you some words of  
16 encouragement to hang in there for a  
17 while?

18 A. Sure. He did. Exactly -- he  
19 surely did, I mean. And it may have been  
20 coming to him down the chain. It was all  
21 a paperwork issue. From Jeff White on  
22 up.

23 Q. You -- I think your van might

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1 have arrived or did arrive on the  
2 premises on May the 3rd, does that sound  
3 right to you?

4 A. It's possible. I don't really  
5 recall the exact date.

6 Q. Whatever date the van arrived,  
7 did Mr. Gastineau attempt to print out a  
8 contract for you to sign in the form  
9 contained in the book here, Exhibit V?

10 A. I do not recall that.

11 Q. Did he tell you the day that  
12 your van arrived, though, that the  
13 computer system would not give him  
14 approval for a contract and a route?

15 A. No, sir.

16 Q. He didn't tell you that?

17 A. No, sir.

18 Q. What did he tell you that day?

19 A. He called me and told me the  
20 van had arrived.

21 Q. Yes.

22 A. I went to the terminal. He  
23 went out and done the maintenance check

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1 Q. Okay. And who told you that?  
2 A. I knew that FedEx would not  
3 issue a van with a contractor ID number,  
4 DOT number, unless the chain of command  
5 at FedEx had not signed off on  
6 everything. Chad Primus at Stearns Bank,  
7 which he had been doing this for years,  
8 and I knew that that's what it would  
9 take.

10 Q. Because Chad told you that or  
11 somebody else did?

12 A. No, I knew that. I mean, I  
13 just knew that through Kent probably, I  
14 knew that they would not issue -- why  
15 would a company issue you a van unless  
16 everything was A-okay?

17 Q. I would suspect that would be  
18 an error, yes, sir.

19 A. Okay.

20 Q. Let's talk about the van  
21 purchase. I need the documents  
22 reflecting the purchase and sale of the  
23 van. Where are those documents? I don't

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1 on the van, checked it over. I told him  
2 I was taking it home, I was going to have  
3 a radio installed, wash it, be ready to  
4 go. He gave me a start date.

5 Q. What was the start date?

6 A. It was the Tuesday after  
7 Mother's Day.

8 Q. Tuesday after Mother's Day?

9 A. I don't recall the date.

10 Q. But as of May the 3rd, you had  
11 no hint there was going to be any problem  
12 or that there was a problem at that time?

13 A. Paperwork problem.

14 Q. You did know on the 3rd when  
15 the van arrived there was still paperwork  
16 problems, correct?

17 A. No. No.

18 Q. You didn't?

19 A. I did not. Because I knew  
20 that I had not -- the van had been  
21 issued, and the issuance of the van would  
22 not have taken place if there was a  
23 paperwork problem.

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1 know that we've ever seen any documents  
2 dealing with the sale of the van.

3 MR. SPOTSWOOD: That's  
4 correct. Those are exhibits --

5 MR. SPOTSWOOD: Hang on. Let  
6 me just go off the record here for a  
7 second.

8 (Off-the-record discussion.)

9 Q. (BY MR. SPOTSWOOD:) Pull  
10 Exhibit H out for us, if you would, Andy.  
11 (Whereupon, Defendant's  
12 Exhibit H was marked for  
13 identification.)

14 Q. Let's look at the second page  
15 of Defendant's Exhibit H, which is the --  
16 appears to be a conditional sales  
17 contract with Stearns Bank. Is that your  
18 signature on the bottom of the pages, on  
19 the first two pages of that three-page  
20 contract?

21 A. Yes, sir, it is.

22 Q. And, then, we have your  
23 signature -- those are your initials on

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1 your first two. Then we have your  
2 signature on the last page, is that  
3 right?

4 A. Yes, sir.

5 Q. How much money did you sell  
6 the -- first let me stop and ask this  
7 question of counsel.

8 MR. SPOTSWOOD: To this day I  
9 have not seen any documents dealing with  
10 the sale of the van.

11 MR. NELMS: Do you have any  
12 documents dealing with the sale of the  
13 van we don't have?

14 A. No, sir, other than in that  
15 packet.

16 Q. (BY MR. SPOTSWOOD:) Let me  
17 ask you a question. Did you do any  
18 paperwork in connection with the sale of  
19 the van?

20 A. Sure, Chad Primus, he worked  
21 everything up and sent me the paperwork  
22 to sign off on it, and I signed it back  
23 to him.

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1 Q. Did you keep a copy of that?

2 A. All the copies I had, I gave  
3 to them, to Andy. I'm pretty sure that I  
4 did.

5 MR. NELMS: Now, I've -- let's  
6 go off the record.

7 (Off-the-record discussion.)

8 Q. (BY MR. SPOTSWOOD:) Let me  
9 ask you this, Mr. Thornton. I know we  
10 don't have apparently the documents  
11 reflecting the sale of the van. Do you  
12 recall, as we sit here today, what the  
13 terms of the sale were?

14 A. My terms?

15 Q. Yeah, what -- what did -- what  
16 did --

17 A. He assumed payments on it. He  
18 just assumed the van, the payments on the  
19 van.

20 Q. Okay. So, you didn't get  
21 any cash back from -- that you had  
22 fronted for the down payment or title  
23 or --

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1 A. Tag, no, sir.

2 Q. -- or tag or any of that?

3 A. I did not.

4 Q. And what happened -- what  
5 happened to the radio, did he purchase  
6 the radio?

7 A. He purchased the radio.

8 Q. He did purchase the radio?

9 A. Yes, sir. The day he picked  
10 it up he purchased the radio and --

11 Q. Did he pay you what you had  
12 paid for the radio?

13 A. Yes, sir, he did. Him and --  
14 I don't remember the fellow's name, but  
15 him and his -- Tony DeRosa, Tony brought  
16 him down to the home, and they picked it  
17 up.

18 Q. Tony was the manager up there  
19 in Anniston?

20 A. Anniston, yes.

21 Q. Do you remember the guy's name  
22 who bought it?

23 A. No, sir, I do not remember.

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1 (Off-the-record discussion.)  
2 (Whereupon, Defendant's  
3 Exhibit AA was marked for  
4 identification.)

5 Q. (BY MR. SPOTSWOOD:) Mr.  
6 Thornton, is this -- you tell me what  
7 this is.

8 A. Okay. This was the down  
9 payment on the truck.

10 Q. What are we looking at there?  
11 Did you charge that to a credit card?

12 A. Yes, sir, I did.

13 Q. What credit card did you  
14 charge it to?

15 A. It was my Visa, National Bank  
16 of Omaha.

17 Q. All right. And the amount of  
18 the down payment on the van was the  
19 1,029.50?

20 A. Yes, sir.

21 Q. And that was a postdate of  
22 April the 22nd, correct?

23 A. Correct.

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1       Q. And that's -- we've been  
2 talking about Exhibit AA, I believe.  
3                     (Whereupon, Defendant's  
4                     Exhibit BB was marked for  
5                     identification.)

6       Q. I'm now going to ask you to  
7 identify Exhibit BB.

8       A. This is actually a renewal  
9 notice that I received not too awfully  
10 long -- well, received 10/3/05 on the --  
11 on the tag of the van.

12      Q. So, this is not something that  
13 you had actually paid then, I take it?

14      A. No, sir, I did not pay it. I  
15 just put it in there.

16                     (Whereupon, Defendant's  
17                     Exhibit CC was marked for  
18                     identification.)

19      Q. Exhibit CC, is this the sales  
20 receipt for the --

21      A. Radio.

22      Q. -- radio?

23      A. Right.

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1       Q. Is that correct?

2      A. Yes, sir.

3       Q. And the buyer whose name we  
4 haven't figured out quite yet reimbursed  
5 you in total for the three thirty-five oh  
6 four?

7      A. Yes, sir.

8                     (Whereupon, Defendant's  
9                     Exhibit DD was marked for  
10                     identification.)

11      Q. I'm going to show you  
12 Defendant's Exhibit DD. This is the  
13 registration certificate, is it not, for  
14 the van?

15      A. Yes, sir.

16      Q. And it reflects a total tag  
17 and tax payment and title fee of  
18 \$1,533.35?

19      A. That's correct.

20      Q. And now, did you get any kind  
21 of a refund for any of this amount?

22      A. No, sir.

23      Q. Was this -- frankly, I'm not

1       sure that I understand how this works.  
2 You obviously paid upon the purchase  
3 state tax, county tax, city tax, total  
4 sales tax of \$1,351.88, correct?

5      A. Yes, sir.

6      Q. And you got no reimbursement  
7 at all from the transaction with the  
8 new --

9      A. None, no, sir.

10     Q. So, this was an out-of-pocket  
11 expense for you?

12     A. Yes, sir.

13     Q. All right. I am marking this  
14 back of this receipt as Defendant's  
15 Exhibit EE.

16                     (Whereupon, Defendant's  
17                     Exhibit EE was marked for  
18                     identification.)

19     Q. It is a receipt from Harbor  
20 Freight Tools, listing a hand truck and a  
21 lashing, ST. I'm not sure what that  
22 means. What are these items?

23     A. It's a hand truck that I

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1       purchased for the truck to use on the  
2 truck for delivery.

3      Q. And the lashing, what was  
4 that?

5      A. That was just to strap it into  
6 the truck where it wouldn't be moving  
7 around.

8      Q. Was this an out-of-pocket  
9 expense that you had, \$29.68?

10     A. Yes, sir.

11     Q. Okay. I'm not going to mark  
12 this. I'm seeing a receipt here. You  
13 apparently paid on your credit card for  
14 the tag amount of 153335.

15     A. Let's see if that was a credit  
16 card or a debit. Yeah, it was credit.  
17 It was credit.

18     Q. All right.

19                     MR. NELMS: Can we staple that  
20 to the --

21                     MR. SPOTSWOOD: Yeah, that's  
22 fine.

23                     MR. NELMS: That way --

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1           MR. SPOTSWOOD: We'll just  
2 make that a part of Exhibit DD.

3           MR. NELMS: Does that read  
4 okay with you?

5           COURT REPORTER: Yes.  
6 (Off-the-record discussion.)  
7 (Whereupon, Defendant's  
8           Exhibit FF was marked for  
9 identification.)

10          Q. (BY MR. SPOTSWOOD:) I've  
11 marked this one Exhibit FF, which are  
12 documents that we received from you  
13 today, and it is a variety of different  
14 documents. I just want to walk through  
15 them with you if I can. The first page  
16 is a bill of sale from FedEx Ground to  
17 you for the Workhouse, correct?

18          A. Yes, sir.

19          Q. And it shows the selling price  
20 of \$33,797, correct?

21          A. Correct.

22          Q. All right. The next page is  
23 an insurance identification card that

1           Insurance Company additional insured  
2 endorsement that names FedEx Ground as  
3 named insured and additional insured,  
4 Charlie Thornton, correct?

5          A. Correct.

6          Q. The cover page of the  
7 insurance?

8          A. Correct.

9          Q. Correspondence is the next  
10 page from Protective to you regarding --  
11 basically providing proof of coverage.

12          The next document is a  
13 Department of Revenue permit basically  
14 for operation of the vehicle before the  
15 title comes through, correct?

16          A. Yes, sir.

17          Q. The next document is just an  
18 envelope from Protective. All right.  
19 Correct?

20          A. Yes, sir.

21          (Whereupon, Defendant's  
22           Exhibit GG was marked for  
23 identification.)

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1           shows insurance on the vehicle effective  
2 4/16/05 and expiring 2/1/06, correct?

3          A. Correct.

4          Q. I take it you did cancel the  
5 policy immediately when you sold the van  
6 to the -- whoever it was you sold it to?

7          A. Yes, I contacted them and let  
8 them know. They still sent me a notice,  
9 though.

10         Q. Did you ever pay any insurance  
11 premiums on it?

12         A. No, not after -- not after  
13 that.

14         Q. I guess my question in part  
15 is, did you pay any premiums ever for  
16 insurance? They might have billed you  
17 after the fact, in which case maybe you  
18 didn't pay the bill. I just don't know.  
19 That's what I'm asking.

20         A. I can't recall. I really  
21 can't recall. I had to pay something to  
22 get the insurance.

23         Q. And this is a Protective

1           Q. Mr. Thornton, I'm showing you  
2 Defendant's Exhibit GG, which I believe  
3 is an application for the insurance  
4 coverage that you purchased which  
5 consisted of a life insurance policy as  
6 well as a disability insurance policy.

7          A. Right.

8          Q. Life insurance paying off  
9 almost \$51,830, and then the disability  
10 coverage providing you 750 -- \$730 a  
11 month in disability benefits, correct?

12         A. Correct.

13         (Whereupon, Defendant's  
14           Exhibit HH was marked for  
15 identification.)

16         Q. What I've got marked as  
17 Exhibit HH is a cover page from  
18 Protective Insurance, a certificate of  
19 group independent contractor work  
20 accident insurance effective 4/26/05, and  
21 then the actual policy group independent  
22 contractor work accident insurance  
23 certificate, which is several pages. Is

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1 this all material that you received  
2 from --

3 A. Yes, sir.

4 Q. -- Protective in connection  
5 with your vehicle?

6 (Whereupon, Defendant's  
7 Exhibit II was marked for  
8 identification.)

9 Q. Let me show you Exhibit II.

10 Is this a letter you received from Chad  
11 Primus, the account manager at Stearns,  
12 dated April 15th?

13 A. Yes, sir.

14 Q. It appears to ask you to  
15 return various documents and execute them  
16 along with a check payable to Stearns for  
17 \$967.50?

18 A. That's correct.

19 Q. And that includes an advance  
20 payment of \$668?

21 A. Correct.

22 Q. And documentation fee of  
23 \$299.50?

1 payments, insurance and taxes?

2 A. Yes, sir.

3 Q. And it advises you that your  
4 next payment is due 5/25/05?

5 A. Correct.

6 Q. And I think these documents  
7 that we've just been through were mailed  
8 in this envelope, if I'm not mistaken.  
9 Do you know?

10 A. Yeah, flip that up and you can  
11 tell what.

12 Q. Okay. So, these --

13 A. Yeah, those are.

14 (Whereupon, Defendant's  
15 Exhibit KK was marked for  
16 identification.)

17 Q. The insurance documents came  
18 in this envelope --

19 A. Correct.

20 Q. -- is that correct? And  
21 that's Exhibit KK. And that's got a  
22 postmark of May 2nd on it, correct?

23 A. Yes.

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1 A. That's correct.

2 Q. Now, is that -- is that the  
3 out-of-pocket costs you incurred in  
4 connection with this van separate from --

5 A. Yes.

6 Q. -- any insurance-related  
7 issues?

8 A. Yes, sir.

9 Q. Okay. And you paid that money  
10 by, I take it, a check?

11 A. No, that was with a credit  
12 card.

13 Q. Was it?

14 (Whereupon, Defendant's  
15 Exhibit JJ was marked for  
16 identification.)

17 Q. All right. And Exhibit JJ is  
18 a letter from you dated May 6th -- I'm  
19 sorry, from Stearns Bank, the customer  
20 service department, to you dated May 6th,  
21 2005?

22 A. Yes, sir.

23 Q. And that tells you about

1 Q. I'm not going to mark that.

2 (Whereupon, Defendant's  
3 Exhibit LL was marked for  
4 identification.)

5 Q. Exhibit LL is your money  
6 receipt for the map book you described in  
7 the amount of \$25?

8 A. That's correct.

9 Q. I haven't been keeping up with  
10 the numbers here, but do you know what  
11 this Regions receipt relates to? It's in  
12 the amount of 1351.88?

13 A. I don't. I can find that out,  
14 though.

15 Q. Okay. If you could find  
16 out --

17 A. I know it has something  
18 pertaining to something, or it wouldn't  
19 be in there. I don't know.

20 Q. If you can figure that out and  
21 let me know in the morning, that would be  
22 good.

23 (Off-the-record discussion.)

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1 (Whereupon, Defendant's  
2 Exhibit MM was marked for  
3 identification.)

4 Q. (BY MR. SPOTSWOOD:) I'll show  
5 you Defendant's Exhibit MM which is a  
6 two-page handwritten note here. Can you  
7 tell me what this reflects?

8 A. (Examining document.) It's  
9 just an itemized statement of expenses  
10 going to training.

11 Q. Were you reimbursed by FedEx  
12 for those expenses?

13 A. No, sir.

14 Q. What do they consist of?

15 A. Oil, gas, lunch, gas, shoes I  
16 bought.

17 Q. So, you were basically keeping  
18 those for tax purposes to keep up with  
19 your expenses in connection with --

20 A. I really don't know how -- I  
21 know my wife wrote this out because  
22 actually this is showing an automatic  
23 deposit of where they paid me right here.

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1 That's a deposit. I was -- that's an  
2 auto -- automatic deposit there.

3 Q. I see.

4 A. There's no amounts there, so I  
5 don't know what -- the only thing it's  
6 showing that I -- I don't know why she  
7 just put something there, the 5878, and  
8 this is just scribble on the back.

9 Q. All right. On the 19th of May  
10 you wrote Kent a letter, correct?

11 A. That's correct.

12 Q. And is that letter shown on  
13 the second page of Defendant's Exhibit M?

14 A. That's correct.

15 (Whereupon, Defendant's  
16 Exhibit M was marked for  
17 identification.)

18 Q. And you enclose with that  
19 letter the first page of Exhibit M?

20 A. That's correct.

21 Q. Was the -- did you also  
22 enclose with the letter the document  
23 that's marked KG 003 so that he would

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1 know -- which appears to be the address  
2 to which the payments should be sent?

3 A. Correct.

4 Q. So, these three documents  
5 consisted of your communication -- your  
6 written communication with Kent?

7 A. Right. I mailed it to his  
8 home.

9 Q. All right. Did you mean what  
10 you said here in this letter?

11 A. I surely did. That was our  
12 conversation.

13 Q. Did he ask you when -- when he  
14 had indicated that he would take care of  
15 making the payment that was due on the  
16 25th, did he ask you not to tell anybody  
17 about that because he might get into some  
18 trouble about it?

19 A. Yes, sir.

20 Q. Did he explain to you why he  
21 might get into some trouble about it?

22 A. No, he did not explain it. He  
23 just wanted it to be between us.

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1 Q. Did you keep it between the  
2 two of you?

3 A. No, I did not.

4 Q. Who did you tell about it?

5 A. I told Jeff White.

6 Q. And who is Jeff White?

7 A. He's either an engineer or  
8 Kent's boss.

9 Q. What did you say to Jeff about  
10 it, or is that in that record -- one of  
11 those recorded conversations?

12 A. It -- it may possibly be. I'm  
13 not quite for sure. There's only one.

14 Q. I don't think you reached Jeff  
15 that day.

16 A. Well, I spoke to Jeff about  
17 it. I know I did. My main concern was  
18 how that payment was going to be made,  
19 and it wasn't being made, and I wanted to  
20 know -- I'm a chain of command guy. I  
21 mean, I'm going to go to him and then I'm  
22 going -- if I can't get answers, go  
23 above. And, so, I called Jeff.

62 (Pages 245 to 248)

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1       Q. Well, did -- when you called  
2 Jeff, did you think that Kent was not  
3 going to make good on his promise to make  
4 the payment?

5       A. I wasn't sure if he was or not  
6 because it was a situation that was not a  
7 very nice situation for either party, and  
8 I had already been appealed to the point  
9 of it was ludicrous, and I just said I'm  
10 not sure, but I knew somebody was going  
11 to come after Charlie for the payment.

12      Q. So, what do you remember  
13 saying to Jeff about the payment?

14      A. I really don't recall the --  
15 the whole conversation. I mentioned it  
16 to Jeff that my main concern was what is  
17 going on with my paperwork, and I had a  
18 payment due in X amount of weeks. And  
19 someone was going to make that payment,  
20 and I told him at the time that Kent --  
21 Kent said that he would make the payment.

22      Q. And did it later turn out that  
23 FedEx made that first payment?

1 maybe earlier than that, possibly the  
2 18th. But your testimony today is that  
3 you did talk to Jeff about this issue  
4 after you wrote this letter to Charlie,  
5 so I need some clarification there. Do  
6 you think you might have told Jeff about  
7 the commitment that Kent had made before  
8 you actually wrote the letter to Kent?

9       A. I don't recall. I really  
10 don't recall.

11      Q. Could it have been, though,  
12 before you actually wrote the letter?

13      A. It's possible. It's possible.

14      Q. I tell you what I'd like to  
15 do, I think, is take a break at this  
16 juncture because I really need to spend  
17 some time looking at this document, I  
18 think.

19      MR. NELMS: Or we can just  
20 start over in the morning, whatever you  
21 want to do.

22      MR. SPOTSWOOD: Yeah, I mean,  
23 it suits me to start in the morning if I

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1       A. I don't know who made the  
2 payment, if anybody made the payment.  
3 All I know is that Chad was able to find  
4 somebody.

5       Q. And since that some person  
6 just took over the payments, you're not  
7 really sure how good a deal he got,  
8 whether he got one payment better deal  
9 than might otherwise be the case?

10      A. Well, I remember the  
11 conversation with Chad, and it may be in  
12 here.

13      Q. I think it is.

14      A. I don't remember the whole  
15 conversation. The guy got a good deal.  
16 I think he got a good deal anyway. But  
17 Chad really helped me out with that  
18 truck.

19      Q. Previously you had indicated  
20 that you started recording conversations  
21 with everyone you talked to at FedEx  
22 beginning with the first conversation on  
23 here, which we know is at least the 19th,

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1 could take this with me. I'd actually  
2 rather not take it with me, so let me see  
3 if we can shoot a picture of this.

4       MR. NELMS: Yeah, give it here  
5 and let me just get them to copy that off  
6 real quick.

7       MR. SPOTSWOOD: Copy the  
8 cover, too, if you don't mind.

9       MR. NELMS: Before y'all go  
10 out tonight, let's make sure we have  
11 everything in order.

12      MR. SPOTSWOOD: Sure,  
13 absolutely.

14      (Whereupon, Defendant's  
15 Exhibit NN was marked for  
16 identification.)

17      (Said deposition was in recess  
18 at 3:34 p.m. until 9:30 a.m.  
19 on the morning of March 16th,  
20 2006. All subsequent  
21 testimony of Mr. Thornton is  
22 contained in Volume II of his  
23 Deposition.)

**In The Matter Of:**

**CHARLIE THORNTON**

**v.**

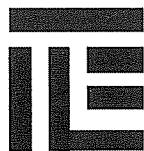
**FEDEX GROUND PACKAGE SYSTEM**

---

**CHARLIE THORNTON**

**March 16, 2006**

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IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

CIVIL ACTION NO: 2:05-CV-00656-DRB

CHARLIE THORNTON,  
Plaintiff,  
vs.  
FEDEX GROUND PACKAGE SYSTEM, INC.,  
Defendant.

VOLUME II DEPOSITION  
OF  
CHARLIE THORNTON  
16TH DAY OF MARCH, 2006

TAKEN BEFORE: Gary N. Morgan  
Registered Professional  
Reporter and Notary Public

1 APPEARANCES  
2

3 FOR THE PLAINTIFF:

4 Mr. K. Anderson Nelms  
5 Attorney at Law  
6 Law Offices of Jay Lewis, LLC  
7 847 South McDonough Street  
8 P. O. Box 5059  
9 Montgomery, Alabama 36104

10 FOR THE DEFENDANT:

11 Messrs. Robert K. Spotswood and  
12 John. R. Parker, Jr.  
13 Attorneys at Law  
14 Law Offices of Robert K. Spotswood  
15 Suite 940  
16 2100 Third Avenue North  
17 Birmingham, Alabama 35203

18 OTHERS PRESENT:

19 Mr. Kent Gastineau

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1 STIPULATION  
2

IT IS STIPULATED AND AGREED,  
3 by and between the parties, through their  
4 respective counsel, that the deposition  
5 of CHARLIE THORNTON may be taken before  
6 Gary N. Morgan, Commissioner, Registered  
7 Professional Reporter and Notary Public,  
8 State at Large;

9 That the signature to and  
10 reading of the deposition by the witness  
11 is waived, the deposition to have the  
12 same force and effect as if full  
13 compliance had been had with all laws and  
14 rules of Court relating to the taking of  
15 depositions;

16 That it shall not be necessary  
17 for any objections to be made by counsel  
18 to any questions, except as to form or  
19 leading questions, and that counsel for  
20 the parties may make objections and  
21 assign grounds at the time of trial, or  
22 at the time said deposition is offered in  
23 evidence, or prior thereto.

1 INDEX  
2

3 PAGE:

4  
5 EXAMINATION BY MR. SPOTSWOOD - 258  
6 CONTINUED

7 EXAMINATION BY MR. NELMS 366  
8 REEXAMINATION BY MR. SPOTSWOOD 383

9 EXAMINATION BY MR. NELMS - 385  
10 CONTINUING

11 REEXAMINATION BY MR. SPOTSWOOD 401  
12 REEXAMINATION BY MR. NELMS 403

13 REEXAMINATION BY MR. SPOTSWOOD 405  
14 REEXAMINATION BY MR. NELMS 409

15  
16 Exhibit OO 258

17 Exhibit PP 261  
18 Exhibit QQ 262

19 Exhibit RR 276  
20 Exhibit TT 284

21 Exhibit SS 285  
22 Exhibit UU 287

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## 1        I N D E X (Continuing)

3      Exhibit VV	316
4      Exhibit WW	330
5      Exhibit I	333
6      Exhibit J	334
7      Exhibit K	335
8      Exhibit XX	359
9      Exhibit YY	363
10     Exhibit ZZ	382
11     Exhibit AAA	411

1      information, the contract FedEx P500,  
 2      that was the truck model, a P500. The  
 3      1.19 stop, I do not know what that is.  
 4      For some reason, I wrote that down. But  
 5      you can see I wrote under there lease to  
 6      own, Chad, 72 months.

7            Q. And Chad is a reference to  
 8      Chad Primus at Stearns Bank?

9            A. Yes, sir. Under that you'll  
 10     see physical, Trice, okay. That was a  
 11     young lady at the terminal. She was  
 12     admin clerk.

13          Q. She was the person who helped  
 14     you with the paperwork at the front end  
 15     that you talked about yesterday?

16          A. Yes, sir. Yes, sir. And she  
 17     was going to -- I'm pretty sure she may  
 18     have set up my physical, and some of that  
 19     writing under that is actually my wife's  
 20     writing because she spoke to Chad about  
 21     the purchase of the truck as far as  
 22     interest rates and stuff like that, so  
 23     that was conversation they had. And

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1      MARCH 16, 2006            9:35 A.M.

2  
 3      CHARLIE THORNTON,  
 4      having been previously duly sworn, was  
 5      examined and testified further as  
 6      follows:

7  
 8      EXAMINATION BY MR. SPOTSWOOD - CONTINUED:

9            (Whereupon, Defendant's  
 10     Exhibit OO was marked for  
 11     identification.)

12          Q. Let me ask you to have a look,  
 13     Mr. Thornton, at Exhibit NN.

14          A. Okay. I've got it right here.

15          Q. Okay. Can you tell me what  
 16     these are, please, sir?

17          A. Yes, sir. At the top that CFF  
 18     basically is a -- there was two financing  
 19     companies, one that pertained to the  
 20     truck purchase. One was CFF. The other  
 21     was Stearns Bank. Those are the phone  
 22     numbers that I received. I do not know  
 23     who I received them from. And the other

1      which was the better of the two as far as  
 2      the purchase. This out to the side --

3            Q. Yes, sir.

4            A. -- that's my wife's writing  
 5      also.

6            Q. The 299.50 --

7            A. Yes.

8            Q. -- one month, 705?

9            A. Right.

10          Q. And so forth?

11          A. Yes, sir. It sure is. And  
 12     let's see. Those directions that are  
 13     under the bottom.

14          Q. Yes, sir.

15          A. I do not know where those  
 16     directions are to. For some reason, I  
 17     wrote those down Exhibit 255, Frankfurt.  
 18     That -- for some reason, I had to take  
 19     some directions for something, and I  
 20     wrote it on there. Then below that is  
 21     information on -- it's just references,  
 22     Jeff Owens, Mike Proper and Ray Harris.

23          Q. Those are the three names that

2 (Pages 257 to 260)

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1 you listed on your application materials  
 2 as references --  
 3       A. Yes, sir.  
 4       Q. -- if I recall correctly?  
 5       A. That's correct. That just  
 6 looks like a copy of something. Okay.  
 7           (Whereupon, Defendant's  
 8           Exhibit PP was marked for  
 9           identification.)  
 10      Q. Just another little  
 11 housekeeping item here. Let me show you  
 12 what I'm going to mark as Defendant's  
 13 Exhibit PP, and this is the first five  
 14 pages of the Elmore County, Alabama E  
 15 9-1-1 map book.  
 16       A. Yes, sir.  
 17       MR. NELMS: Bob, do you want  
 18 me to stipulate that that's  
 19 representative of the entire --  
 20       MR. SPOTSWOOD: Yeah. I'll  
 21 get to that. This is the map book that  
 22 is -- I've got a multipage map book here.  
 23 I've only marked the first few pages as

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1 Exhibit PP, and I just want to confirm  
 2 that this is the map book that you talked  
 3 about yesterday for which -- which you  
 4 purchased for \$25 --  
 5       A. That's correct.  
 6       Q. -- in order to become more  
 7 familiar with the route that you had  
 8 hoped to receive in Elmore County?  
 9       A. That's correct.  
 10      Q. I want to show you Defendant's  
 11 Exhibit OO. Is this a FedEx home  
 12 delivery pamphlet titled The  
 13 Entrepreneurial Spirit that you received  
 14 in the course of seeking to become a  
 15 contractor?  
 16      A. Yes, sir.  
 17           (Whereupon, Defendant's  
 18           Exhibit QQ was marked for  
 19           identification.)  
 20      Q. I now want to turn to your  
 21 notes, and I know you have the originals  
 22 over there. Yesterday we made a copy of  
 23 your notes, and they are 20 pages long,

1 if I remember correctly, and that's  
 2 Defendants QQ. As far as I'm concerned,  
 3 since your counsel made these copies for  
 4 me, I think we're on the same page that  
 5 I've got a complete set here.  
 6           First of all, can you identify  
 7 Exhibit QQ as a true and correct and  
 8 accurate copy of handwritten notes that  
 9 you and your lawyer produced to us  
 10 yesterday?  
 11       A. Yes, sir.  
 12       Q. A couple of general questions  
 13 first about these. This is a time line,  
 14 the first entry on the first page says  
 15 time line. When did you actually make  
 16 these notes? And let me be very precise  
 17 here. Did you make these notes on the  
 18 dates that are indicated here?  
 19       A. No, sir. I did not.  
 20       Q. Do you recall when, then, did  
 21 you actually make these notes?  
 22       A. The exact date, no, I don't  
 23 recall. It was after Andy and I had our

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1 conversation as far as my rights, and  
 2 Andy told me what to do because I didn't  
 3 know what to do.  
 4       Q. Okay. So, it was sometime,  
 5 I'm going to guess, within the last week  
 6 of May 2005 given that the lawsuit was  
 7 filed --  
 8       A. Either May or June, the first  
 9 of June, yes.  
 10      Q. Was it before or after your  
 11 complaint was actually filed, do you  
 12 remember that, because that was filed on  
 13 the 25th of May, I believe?  
 14       A. I don't recall.  
 15       Q. Did you use some materials to  
 16 reconstruct the time line and information  
 17 that was here, other notes, or was it  
 18 basically your recollection of events?  
 19       A. It was my recollection. Yes.  
 20       Q. Okay. And I know that we've  
 21 already marked and identified -- it's  
 22 actually Exhibit N, a transcription of  
 23 your history, I guess, at FedEx Ground.

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1 Was this prepared before or after you  
 2 made the verbal history that's before us  
 3 as Exhibit N, if you remember?

4       A. I don't really recall if it  
 5 was before or after.

6       Q. All right.

7       A. It may have been around the  
 8 same time because it's possible it was  
 9 very close to the same -- both of them  
 10 were close to the same time. I don't  
 11 recall which was which. I know I -- I  
 12 just don't recall.

13      Q. On the first page, second  
 14 paragraph, there's a note, first or  
 15 second week Jan. Is that your  
 16 handwriting?

17      A. All of this is my handwriting.

18      Q. All right. On page six, the  
 19 second sentence beginning "the last day,"  
 20 I'm just unclear -- there's an  
 21 interlineation of the word Joe, and I'm  
 22 just unclear exactly what this means. As  
 23 I read it, it says, "The last day of

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1 McConnell there?

2       A. Yes, sir, I am.

3       Q. And over to the next page,  
 4 which is a reference to February 8th, is  
 5 the reference there on the third line, "I  
 6 met with Joe." That's Joe McConnell  
 7 again?

8       A. Yes, sir.

9       Q. And he introduced you to Kent  
 10 Gastineau?

11      A. That's correct.

12      Q. And that was the first date on  
 13 which you had ever met Kent, is that  
 14 correct?

15      A. That's correct.

16      Q. Let me call your attention  
 17 several pages forward in your notes there  
 18 to February the 15th, Tuesday.

19      A. Yeah.

20      Q. Is it correct on that day, and  
 21 this is what it says, you and Jermaine  
 22 ran the Troy route?

23      A. We ran the -- yes, sir, we

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1 class or the day before, I met Joe 2 or  
 2 the 3rd, and we talked about Montgomery  
 3 and the areas that are open." Do you see  
 4 that there?

5       A. Yes.

6       Q. I just don't understand  
 7 what -- what's being referenced there by  
 8 2 or the 3rd.

9       A. That's the second or -- I  
 10 don't recall what I meant, whether it was  
 11 the 2nd or the 3rd of the month or the  
 12 second or the third meeting I had with  
 13 him.

14       Q. And this is -- this particular  
 15 entry, if you flip over to the prior  
 16 page, is for a time period February 1  
 17 through 10, correct, when you were given  
 18 your training in Birmingham?

19       A. Yes. So, it must have been --  
 20 that must have been a date. I would  
 21 assume that it would be a date, 2nd or  
 22 3rd.

23       Q. And you're talking about Joe

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1 did. We actually ran the -- the royal --  
 2 the rural part of the -- part of the  
 3 route there.

4       Q. What was that route? Did it  
 5 actually go all the way down into the  
 6 city of Troy, Alabama and the surrounding  
 7 counties or what?

8       A. It went into the -- that  
 9 particular day it was the surrounding  
 10 counties and some of the outlying small  
 11 towns. I don't recall the -- remember  
 12 the names of the towns, but it wasn't  
 13 directly inside the city. It was on the  
 14 outskirts.

15       Q. Is that route contiguous to a  
 16 route that serves Montgomery County, or  
 17 was there something in between those two  
 18 routes?

19       A. No. My best recollection, it  
 20 is part of Montgomery County also because  
 21 I'm thinking it was Pike Road, the  
 22 Matthews area, and I believe they are in  
 23 Montgomery County.

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1       Q. And then you go south from  
 2 there all the way down to Troy?  
 3       A. Yes, sir, and outlying areas.  
 4       Q. The next sentence here says,  
 5 "The fellow that ran this route was out  
 6 sick, which at this time the Troy route  
 7 had not been assigned to anyone  
 8 permanently." And that was Isaac Scott  
 9 who was running it --

10      A. That's correct.

11      Q. -- regularly, wasn't it? You  
 12 then say here, "This route that we ran  
 13 was very rural and very long, and  
 14 Jermaine said they had a problem keeping  
 15 drivers on it."

16      A. That's correct.

17      Q. And you say, "We got lost  
 18 several times because of bad directions.  
 19 To say the least, it was not a positive  
 20 experience."

21      A. That's correct.

22      Q. And then you go on to say,  
 23 "Jermaine said he did not think that

1       this was sometime in late May, and it was  
 2 based on your recollection of your  
 3 discussions a couple of months  
 4 previously?

5       MR. NELMS: Object to the  
 6 form. Answer the question.

7       A. Yes, sir.

8       Q. You had no other notes to help  
 9 you recall exactly what was said between  
 10 you on this occasion?

11      A. No, sir, I do not.

12      Q. And you hadn't tape recorded  
 13 any of those conversations --

14      A. No, sir.

15      Q. -- that you -- you need to let  
 16 me finish.

17      A. I'm sorry.

18      Q. You hadn't tape recorded any  
 19 of the conversations that we've been  
 20 talking about or that are reflected  
 21 really at all on this exhibit?

22      A. No, sir.

23      Q. On the next page, you say

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1       Isaac was sick. He felt that he was  
 2 getting tired of putting in 13- and  
 3 14-hour days, and he told me or said I  
 4 should not ask for this route."

5       A. That's correct.

6       Q. And that's, in fact, what  
 7 Jermaine said to you?

8       A. That's exactly right.

9       Q. And then the next day,  
 10 February 16th, you say here, "Isaac was  
 11 still out, so Kent asked me to run that  
 12 (sic) route and that I would not have to  
 13 run out of the town, that I would only  
 14 run inside the city, which that was okay  
 15 by me, but I also told him that morning  
 16 that if Isaac did not come back or quit  
 17 because no one could reach him, I would  
 18 take the Troy route, but I would prefer  
 19 Wetumpka or the Montgomery route over  
 20 Troy, and he said that he hoped Isaac  
 21 would be back."

22      A. Yes, sir.

23      Q. And when you wrote this down,

1       here, "That morning -- which I take it is  
 2 a reference to February 16th -- "Kent and  
 3 I discussed my paperwork, and he said  
 4 everything that needed to be sent to  
 5 corporate had been sent to be signed off  
 6 on, and that it should only take a few  
 7 days." Correct so far?

8       A. Yes, sir.

9       Q. "I stated to him that was  
 10 great and that I did not want to be a  
 11 temp driver."

12      A. Correct.

13      Q. And then it says here in  
 14 parentheses, "Jermaine had said that if I  
 15 agreed to be a temp driver (sic) that  
 16 they would drag their feet and only pay  
 17 me minimum and not contractor pay,"  
 18 correct?

19      A. That's correct.

20      Q. That's what Jermaine had said  
 21 to you?

22      A. That's exactly right.

23      Q. And then you go on to say

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1 here, "But if at any time between now and  
2 everything was approved, I will help him.  
3 All he had to do was call, and Kent said  
4 okay. He also felt Isaac was going to  
5 take the Troy route."

6 A. That's correct.

7 Q. And, then, your notes go on to  
8 talk about the unfortunate death of your  
9 wife's mother?

10 A. Correct.

11 Q. So, you were basically --

12 A. Might I add one thing?

13 Q. Sure.

14 A. On this one I told Kent that I  
15 would help him in any way possible. We  
16 had discussions on, you know, if he was  
17 shorthanded or whatever, and I made  
18 several phone calls. As a matter of  
19 fact, he told me that he may need me to  
20 run some -- a route on a Saturday, and I  
21 would call him like on Friday and, no, we  
22 don't need you to do that. I was willing  
23 to do anything, you know, because I was

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1 just waiting. I was in limbo.

2 Q. All right. Your notes reflect  
3 that you were out of town February 17th,  
4 through the 22nd, in connection with the  
5 illness of your wife's mother, is that  
6 correct?

7 A. Yes, sir.

8 Q. And then when you returned on  
9 February 23rd, according to your notes,  
10 you called Kent to let him know that you  
11 were back in town. And among other  
12 things, you, quote, asked about my  
13 paperwork, and at that time he had not  
14 heard anything. That was the report that  
15 day?

16 A. Correct.

17 Q. And then on Thursday, the 24th  
18 of February, you got the word that your  
19 wife's mother had died, and you were  
20 basically out of town from that day,  
21 Thursday, the 24th, until the 28th of  
22 February when you returned from  
23 Tallahassee?

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1 A. Correct.

2 Q. On March the 1st, according to  
3 your notes, you went to the terminal to  
4 check with Kent and let him know that you  
5 were home and see how things were going.  
6 Correct so far?

7 A. Correct.

8 Q. And he said then that Kent --  
9 I'm sorry. Strike that.

10 Your notes state the  
11 following: "Kent stated to me that  
12 Stan -- and that's a reference to Stan  
13 Trott, correct?

14 A. That's correct.

15 Q. -- "had not sent the correct  
16 paperwork in at the beginning my process,  
17 and he had to correct some items and that  
18 he was sorry and that the paperwork had  
19 gotten into the wrong hands, so it was  
20 going to take some (sic) more time."  
21 That's what Kent told you that day?

22 A. That's correct.

23 Q. You said -- I'm sorry. Strike

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1 that.

2 Continues, and he said -- "He  
3 should know something in a few days, and  
4 he would call me ASAP."

5 A. Correct.

6 Q. You go on to say -- and this  
7 may have been what you were talking about  
8 just a moment ago. "So, I told him to  
9 let me know if someone did not show up to  
10 call me, and he said okay. That day he  
11 also gave me my ID badge which expires  
12 (sic) 5/31/06, and he also gave me my  
13 uniforms that came in," correct?

14 A. Yes.

15 (Whereupon, Defendant's  
16 Exhibit RR was marked for  
17 identification.)

18 Q. And the ID package in question  
19 is what we've marked here as Exhibit RR?

20 A. Yes, sir, it is. You need  
21 that back?

22 Q. Yes, sir. Thank you.

23 A. You also need this one.

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1       Q. Thank you. Let me go back to  
 2 the entries on February the 9th,  
 3 Wednesday, February the 9th, if you can  
 4 flip back to that.

5       A. Okay. All right.

6       Q. And this describes your -- I  
 7 guess your first day driving with  
 8 Jermaine Wilson. This is the beginning,  
 9 I think, of your driving certification  
 10 ride?

11      A. That's correct.

12      Q. So, this was your first day  
 13 with Jermaine?

14      A. Correct.

15      Q. And you state here, "During  
 16 our deliveries we talked about how the  
 17 terminal needs someone on this route  
 18 because they did not have a permanent  
 19 driver for this route, and it was stated  
 20 by Jermaine that the whole terminal was a  
 21 mess because of Ground running home  
 22 delivery and Home-D running ground." Is  
 23 that correct so far?

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1       A. That's correct.

2       Q. "But he hoped with Kent's help  
 3 they would get it fixed, and the biggest  
 4 problem was Stan, but he was to retire  
 5 soon." Correct so far?

6       A. Yes, sir.

7       Q. By correct, I mean that's a  
 8 correct statement of what Jermaine was  
 9 telling you?

10      A. Correct. Correct.

11      Q. What did you understand him to  
 12 mean in connection with home running  
 13 ground and ground running home? What did  
 14 you understand that to mean?

15      A. Well, you had -- you had the  
 16 ground side, and you had home delivery  
 17 side, and this is the way I interpreted  
 18 what he was saying because I had heard  
 19 things, not just that conversation, other  
 20 guys talking, that Stan has nothing to do  
 21 with -- with Kent, but Stan had guys on  
 22 the ground side delivering home delivery  
 23 packages and vice versa, and it was

1 just -- it was just mixed up, and it's  
 2 not supposed to be run that way.

3       Q. What was your understanding of  
 4 how the work was to be divided?

5       A. Well, I was just at that time  
 6 getting a grasp on what packages were to  
 7 be delivered to what particular  
 8 customers, and I understood that home  
 9 delivery meant home delivery, you know,  
 10 to individuals' homes, and ground dealt  
 11 more with business. And you had guys  
 12 with ground delivering home delivery  
 13 packages and the home delivery delivering  
 14 ground packages. And it was -- and there  
 15 was favoritism. There was favoritism  
 16 because of Stan's being a ground guy, he  
 17 might give more packages to the ground  
 18 guys, and that's the way I interpreted  
 19 what he was saying.

20      Q. Okay. We then get into March  
 21 2nd, March 3rd, March 4th. On those  
 22 dates you did not hear anything from  
 23 Kent, is that correct?

1       A. That's -- that's correct.

2       Q. And no conversations with  
 3 anyone at FedEx, I take it?

4       A. That's correct.

5       Q. Then we get over to March 5th,  
 6 Saturday and you had, according to this,  
 7 received a call from Jermaine "on  
 8 Saturday morning around 10:30 which he  
 9 left a message on the recorder asking if  
 10 I could come in and work for two hours,  
 11 that he could not deliver 20 to 30  
 12 packages." You didn't get that message  
 13 in time to respond is what I take it from  
 14 the sense of this?

15      A. Yes, that's correct.

16      Q. All right. You make one entry  
 17 here for March the 8th, Tuesday, through  
 18 March the 12th, Saturday. You say,  
 19 "During this week I heard nothing about  
 20 my paperwork. I made call to Kent and  
 21 expressed I needed to know something, and  
 22 all I got was the paperwork is getting  
 23 put together." What exactly did Kent say

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1 to you? Is that what he said?

2 A. Basically, yes, that's what he  
3 said. And I think the paperwork at that  
4 time was totally out of Kent's hands, and  
5 it was up the chain of command.

6 Q. "I called Joe McConnell in  
7 Birmingham at the terminal and expressed  
8 to him that Kent did not seem to know  
9 much about my paperwork, so I asked him  
10 to check for me." Correct so far?

11 A. Yes, sir.

12 Q. "And he said he would, and he  
13 was going to call Kent and have him call  
14 me back. By the end of the week, nobody  
15 had called me." Is that all correct?

16 A. That's correct.

17 Q. Did you have any substantive  
18 discussion with Joe McConnell about what  
19 was going on or why the paperwork had not  
20 come through or any of that?

21 A. Well, Joe didn't know why  
22 either, but he -- but I knew he was the  
23 go-to man because Kent was new, and there

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1 was nobody else there to contact.

2 Q. And then we move into the next  
3 week, Tuesday, March 15th, through  
4 Saturday, March 19th. You state here,  
5 "Again this week was making phone calls  
6 to Kent and Joe." How many calls that  
7 week did you make to Kent, if you can  
8 remember?

9 A. I don't recall, but I didn't  
10 want to make so many that I harassed him  
11 because, I mean, it -- each time I made a  
12 phone call, he really didn't know what  
13 was going on.

14 Q. Right.

15 A. Neither did -- did Joe.

16 Q. It says here you "also called  
17 Omar Newman, and Omar said that he had  
18 already signed off on my paperwork." And  
19 that's what he told you?

20 A. Yes, sir.

21 Q. Did he give you any assessment  
22 or description of what the problem was or  
23 what the hangup was?

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1 A. The only thing that Omar would  
2 say was he didn't understand what was  
3 taking so long. And I knew that he had  
4 to sign off on the paperwork, and  
5 basically it -- it was left at that. He  
6 didn't know where else to go, but it left  
7 his hands and went up another chain of  
8 command.

9 Q. And then you say here, "So, I  
10 was back at the starting line." That's  
11 just an observation about your feelings  
12 essentially?

13 A. That's correct.

14 Q. Then we move to Tuesday, March  
15 22nd through Saturday, March 26th.  
16 "During this week, calls were made to  
17 Kent, and I still called Joe, and Chad  
18 from Stearns Bank was wanting to know if  
19 I knew anything." Let me stop there and  
20 ask you what, if anything you recall  
21 specifically about your conversation  
22 with Kent -- conversations with Kent that  
23 week.

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1 A. It was basically the same  
2 conversation, Kent, have you heard  
3 anything? Not yet, not yet, not yet.

4 Q. And the same for Joe --

5 A. Yes, sir.

6 Q. -- McConnell?

7 A. That's correct.

8 Q. This may be the first  
9 reference I see here to Chad. Is this  
10 when you first began talking with Chad  
11 about financing on the truck?

12 A. No, sir. I had already been  
13 approved, and it was just waiting in the  
14 wings. Chad started calling me wanting  
15 to know what was going on, and had I  
16 heard anything about the approval.

17 Q. This is a little out of order  
18 and stepping back some, but I'm going to  
19 interject a couple of e-mails here.

20 (Whereupon, Defendant's  
21 Exhibit TT was marked for  
22 identification.)

23 Q. I just marked them out of

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1 order too. Is Exhibit TT an e-mail that  
 2 you sent to Omar Newman on February the  
 3 23rd of 2005 about your status?

4       A. (Examining document.) Yes,  
 5 sir, it is.

6       Q. And is Exhibit -- did you get  
 7 any response to that? Did he e-mail you  
 8 back, for example?

9       A. I don't recall if he e-mailed  
 10 me back or not.

11      Q. Have you checked your e-mails  
 12 for any e-mail correspondence about this  
 13 matter?

14      A. The only correspondence that I  
 15 could find is what I've got right here.

16           (Whereupon, Defendant's  
 17 Exhibit SS was marked for  
 18 identification.)

19      Q. Let me ask you to look at  
 20 Exhibit SS. Is this an e-mail that you  
 21 sent to Omar on the 24th of February of  
 22 2005?

23      A. (Examining document.) Yes,

1       A. Correct.

2       Q. And then you mentioned here  
 3 "Chad at Stearns could not release  
 4 financing to FedEx until all of my  
 5 paperwork had been approved and a truck  
 6 ID (sic) was given," right?

7       A. Correct.

8       Q. That's what he told you?

9       A. Yes, sir.

10           (Whereupon, Defendant's  
 11 Exhibit UU was marked for  
 12 identification.)

13      Q. All right. I'm going to show  
 14 you a document marked for identification  
 15 as Exhibit UU. Is that an e-mail that  
 16 you sent on March the 28th to Omar?

17      A. Yes, sir, it is.

18      Q. Take a second to look at that.

19      A. (Examining document.) All  
 20 right.

21           MR. NELMS: I'm reading it.

22      A. Okay. There you go.

23      Q. You state here in the second

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1       sir, it is.

2       Q. On this day -- I'm not sure  
 3 what date this is because this is an  
 4 entry under the whole week, but under the  
 5 week -- under the entry for the week of  
 6 March 22nd through 26th, you say --

7       A. What week was that again? I'm  
 8 sorry.

9       Q. I'm still under the March 22nd  
 10 through March 26th period.

11      A. Yes, sir.

12      Q. You say here Chad had called  
 13 you, I take it, wanting to know if you  
 14 knew anything?

15      A. Correct.

16      Q. And you said what?

17      A. No.

18      Q. And you also recite here,  
 19 "Chad also called Kent to see what was  
 20 going on, and Kent told Chad as soon as  
 21 he heard the approval, he would --

22      A. E-mail him.

23      Q. -- e-mail him."

1       sentence, "I went into the terminal  
 2 Saturday the 26th and picked up a P/D  
 3 contractor business guide and talked to  
 4 Kent." Is that correct? Is that what  
 5 you did?

6       A. Yes, sir.

7       Q. And is the business guide that  
 8 you're talking about Defendant's Exhibit  
 9 V?

10      A. Yes, sir, that's correct.

11      Q. And, so, that would clarify  
 12 that the date that you actually received  
 13 that would have been on the 26th of  
 14 March, Exhibit V?

15      A. I assume that's correct.

16      Q. And you apparently talked to  
 17 Kent that day, and this is what the  
 18 e-mail Exhibit UU states: "I know that  
 19 you had already signed off my file  
 20 several days, but he was saying that he  
 21 had just received it on the 25th, so I  
 22 did not say anything."

23           And this was -- what you are

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1 reciting here, if I understand this  
2 correctly, is what Kent was telling you  
3 about getting the sign off by Omar on  
4 your file?

5 A. Yes, sir, that's correct. I'm  
6 just thinking back.

7 Q. Yes, sir. Did you get any  
8 kind of a response from Omar to this  
9 e-mail that you can recall?

10 A. I'm not sure -- I don't think  
11 I had an e-mail response. I'm not sure  
12 if he called me or not. I mean, it may  
13 be in the transcript where we discussed  
14 that. I'm not really sure.

15 Q. But sitting here today, you  
16 don't remember?

17 A. No, sir, as far as e-mail, I  
18 don't.

19 Q. And you can't remember any  
20 specific telephonic response to this,  
21 unless it's otherwise reflected in the  
22 transcripts?

23 A. Right.

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1 engineers?

2 A. Yes, sir. I assume that's  
3 correct.

4 Q. Industrial engineers?

5 A. Route planning, I assume. He  
6 was the one who planned the routes and  
7 everything.

8 Q. Who told you that that was  
9 somebody you should be talking to?

10 A. I think I received a phone --  
11 his phone number from Kent. And I knew  
12 he was the next man up the -- up the  
13 ladder.

14 Q. All right. So, what did Jeff  
15 tell you when you reached him?

16 A. Well, it's stated in here. He  
17 would find out something. I don't recall  
18 exact words. I'd have to read this.

19 Q. Whatever is on this piece of  
20 paper is as good as it's going to get --  
21 as it will get about your recollection?

22 A. Well, I'm not sure if that's  
23 as good as it will get. I know that --

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1 MR. NELMS: Those being the  
2 telephone transcripts that we have, the  
3 recorded telephone transcripts.

4 MR. SPOTSWOOD: Yeah, I assume  
5 he -- none of those conversations are in  
6 this time frame, so I assume what he's  
7 talking about is his narrative which is  
8 Exhibit N.

9 Q. Turning to your entry for  
10 Tuesday the 29th of March through  
11 Thursday, the 31st of March, it says  
12 here, "I talked to Chad, which Chad  
13 talked to Jeff White, an engineer with  
14 FedEx, and I also called him and talked  
15 to him for the first time."

16 A. Correct.

17 Q. Who is him?

18 A. Jeff White.

19 Q. And what was Jeff White's  
20 position, as you understood it?

21 A. He was an engineer.

22 Q. He was a -- what kind of an  
23 engineer, one of these route planning

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1 well, as I put on here, he said that he  
2 was glad that I called him, and he was  
3 going to find out something. And there  
4 may be more to it than that down, you  
5 know, in the entry, but on this  
6 particular date.

7 Q. Well, do you recall what Jeff  
8 White said about your approval status?

9 A. It was still all a paperwork  
10 problem.

11 Q. Okay. And this note also  
12 says, "Kent called on Wednesday, the 30th  
13 and asked I could come in on Thursday and  
14 pick up my contractor business guide."  
15 And you did that, as reflected here in  
16 this e-mail, Exhibit UU, correct?

17 A. Yes.

18 Q. When you picked up your  
19 contractor business guide, what did you  
20 and Kent talk about?

21 A. If I recall correctly, we -- I  
22 picked that up. He explained to me that  
23 this was the business guide as far as --

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1 as far as the regulations with FedEx. We  
 2 went from there into the terminal, and we  
 3 talked about the Wetumpka route. He  
 4 pulled it up on a map on the computer and  
 5 showed me where -- like I stated  
 6 yesterday, where the route branched out  
 7 into Elmore County. And --

8 Q. Did he at that time actually  
 9 try to print a contract out for you on  
 10 the computer system and was not able to  
 11 do so, or do you remember that?

12 A. No, sir, I don't recall that.

13 Q. Okay. And the contractor  
 14 business guide, did you take this home  
 15 and have a look at it?

16 A. Yes, sir.

17 Q. Did you ask them any questions  
 18 about it?

19 A. No, sir.

20 Q. Do you know who was working in  
 21 the Wetumpka area at this time?

22 MR. NELMS: Object to the  
 23 form.

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1 A. Nobody, as far as I knew. It  
 2 was just being filled in.

3 Q. By whom?

4 A. Oh, I don't know. It was not  
 5 a permanent individual doing it. I mean,  
 6 it was just different people.

7 Q. Your next entry here shows  
 8 April 1st and 2nd, Friday and Saturday,  
 9 "I heard nothing on these (sic) days."  
 10 And then we move -- is that correct?

11 A. That's correct.

12 Q. And then we move to April 5th  
 13 through April 9th, Tuesday through  
 14 Saturday. "During this week, I called  
 15 Kent, and he told me that he and Jeff --  
 16 and that's Jeff White, correct?

17 A. Correct.

18 Q. -- "was pushing everything  
 19 through, but he was still trying to get  
 20 Isaac to finish financing on his van, but  
 21 he could not get a commitment from him."  
 22 Is that correct?

23 A. That's correct.

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1 Q. And then it says this: "I  
 2 told Kent that I would take the Troy  
 3 route, that I needed to go to work so I  
 4 could pay my bills, and I asked him what  
 5 I needed to do." Correct so far?

6 A. Yes, sir.

7 Q. "He told me to check on a  
 8 Sprinter van with Chad. I called Chad to  
 9 see if I could. His reply was that FedEx  
 10 did not like contractors to use the  
 11 Sprinter, but he would check to see." Is  
 12 that all correct so far?

13 A. Correct. Yes, sir.

14 Q. "So, I told Kent, and he was  
 15 going to try to get in touch with Isaac.  
 16 Kent said he would not return his  
 17 calls" -- and he's referring to Isaac  
 18 there, I take it?

19 A. Correct.

20 Q. "But he would let me know, and  
 21 we would be getting together about the  
 22 Wetumpka route." Correct?

23 A. Yes, sir.

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1 Q. That's the last of your notes.

2 A. Right.

3 Q. And, then, we really don't  
 4 have anything in writing from April the  
 5 9th until you started recording phone  
 6 calls, which I think is sometime after  
 7 the 15th of May. So, my question to you  
 8 is what was going on between then and  
 9 these last entries, which would be  
 10 roughly five weeks or so?

11 A. It's probably in the -- in  
 12 the --

13 Q. In your narrative?

14 A. Yes.

15 Q. Exhibit O -- N, rather?

16 A. N.

17 MR. NELMS: Gary, did we -- we  
 18 didn't admit the original, we admitted  
 19 the copy.

20 MR. SPOTSWOOD: Yeah.

21 MR. NELMS: Okay.

22 MR. SPOTSWOOD: Exhibit QQ.

23 MR. NELMS: Okay.

11 (Pages 293 to 296)

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1       Q. (BY MR. SPOTSWOOD:) And I'm  
 2 looking at Exhibit N, at pages 20 and 21,  
 3 and does that reflect your best  
 4 recollection of what was going on in the  
 5 April time frame we've been talking  
 6 about?

7       A. I'll need to go over that.

8 (Examining document.)

9       Q. Let me be specific with you --  
 10 well, let me give you a couple of minutes  
 11 to have a look at pages 20 through 23.

12      A. (Examining document.) You say  
 13 through 23?

14      Q. Yes.

15      A. Okay. I've reviewed that.

16      Q. Okay. Actually over on page  
 17 24 it states, "Kent had an Elmore County  
 18 911 map book that the emergency response,  
 19 the emergency management response office  
 20 issues up in Elmore County. He said,  
 21 Charlie, you need to get you one of these  
 22 because this will really simplify your  
 23 job." And then you explain some more

1 things."

2       A. Right.

3       Q. "But, anyways, Chad gave me a  
 4 call, and he told me that the number had  
 5 come through on the e-mail to Kent at the  
 6 terminal in Montgomery." Do you know  
 7 what day that was?

8       A. No, sir, I do not know the day  
 9 or the date.

10      Q. But in any event, according to  
 11 this, Chad said he would be sending you  
 12 the paperwork. He would overnight it to  
 13 you, and that would allow the van to be  
 14 released, correct?

15      A. Correct.

16      Q. So, you then get a telephone  
 17 call from Kent, correct?

18      A. Correct.

19      Q. He asked you how long did you  
 20 want your contract to be, one year or two  
 21 years, correct?

22      A. That's correct.

23      Q. And you told him "may as well

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1 about what he said about it. Does this  
 2 take place on the same day that you  
 3 picked up your -- this conversation the  
 4 same day that you picked up your  
 5 contractor's business guide?

6       A. I do not recall.

7       Q. Okay.

8       A. It was either that day or  
 9 after.

10      Q. Soon after, a day or two  
 11 after?

12      A. I do not recall.

13      Q. On page 24 and 25, at the  
 14 bottom of the page, you state here after  
 15 you say, "I wait and I wait and I wait."  
 16 You say, "And I called Chad, and Chad was  
 17 telling me that he had spoke to Kent, and  
 18 as soon as they -- FedEx gave him the  
 19 approval number, that he was going to  
 20 e-mail Chad. And Chad said he would let  
 21 me know, you know, as soon as he got the  
 22 number and then would release the papers,  
 23 and I would still have to do some

1 go two years because I didn't plan on  
 2 going anywhere."

3       A. Correct.

4       Q. And he responded okay, quote,  
 5 he was going to go ahead and put me down  
 6 for a two-year contract, close quote,  
 7 period?

8       A. Correct.

9       Q. And your response was "that's  
 10 fine, you know, that's great."

11      A. That's correct.

12      Q. So, the next day you get your  
 13 paperwork, and you go down to Kent's  
 14 office, correct?

15      A. Where are you at? Oh, the  
 16 next -- okay. I went in -- (Examining  
 17 document.)

18      Q. Well, you say, "I'm not sure I  
 19 went in that day or it was the next" --

20      A. That's correct.

21      Q. -- "but it was real close."

22 So, it was either that day or the next  
 23 day?

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1       A. Correct.

2       Q. So, you go down to his office.  
3 You get online with him and you complete  
4 your insurance coverage application?

5       A. Correct.

6       Q. And then you had received the  
7 packet of materials from Chad, and you  
8 had signed all the paperwork on that and  
9 returned it to Chad?

10      A. Had it notarized.

11      Q. Okay. Is everything else I  
12 just got through saying correct?

13      A. That's correct.

14      Q. So, the van arrives, and I'm  
15 now on page 29 where you talk about  
16 inspecting the van, checking things off,  
17 checking the oil and so forth, and you're  
18 doing all that with Kent, correct?

19      A. Correct.

20      Q. And then your statement says,  
21 "At that time he said -- and you're  
22 referring to Kent -- "we need to get  
23 online where I can get you to sign some

1 a statement, please?

2       Q. Yeah, sure.

3       A. We didn't go on. We -- we  
4 didn't go on the PC in the office.

5       Q. Okay.

6       A. We went to the inside of the  
7 terminal and got on the PC inside the  
8 terminal. I don't know why, but that's  
9 the terminal -- the one we got on.

10      Q. Okay. But you were on a, you  
11 know, PC that was at the facility there?

12      A. Correct. That's correct.

13      Q. And Kent then says, according  
14 to your statement, as soon as it comes  
15 up, I'll give you a call and you can come  
16 back in and sign off, and that's when you  
17 left.

18      A. That's correct.

19      Q. So, you then had the radio  
20 installed, and we've talked about that  
21 already. And you called him the next day  
22 and asked what's going on, and he said,  
23 quote, it's still not up, correct?

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1 things, correct?

2       A. Correct.

3       Q. So, you go into the terminal,  
4 and you got on a PC, and -- Kent got on  
5 the PC, I take it, is that correct?

6       A. Correct.

7       Q. And he said, well, there must  
8 be something wrong because I can't get  
9 on. I can't get on the -- you know, into  
10 the area that I need, the page that I  
11 need to get on. Is that correct? Is  
12 that what he told you?

13      A. That's correct.

14      Q. And your statement says, "He  
15 said the reason why he couldn't get on  
16 was because they had been doing some work  
17 on the computers because of the uplink on  
18 the scanner. The scanner that scans the  
19 packages, and (sic) they had updated some  
20 stuff on it, and he said that's probably  
21 what it was." That's what he told you  
22 that day?

23      A. That's correct, but can I make

1       A. Correct.

2       Q. And then he says to you, I  
3 will tell you I'll -- "I tell you what  
4 we're going to do. We're going to start  
5 you next Tuesday. Next Tuesday. This is  
6 the Tuesday after Mother's Day."

7       A. Correct.

8       Q. "And he said we can sign  
9 that -- we can sign that document Tuesday  
10 morning. It won't take no time to sign  
11 it."

12      And was it your understanding  
13 the document he's talking about is the  
14 contract and the --

15      A. No, sir.

16      Q. -- and the P & D contractor  
17 business guide?

18      A. No, sir.

19      Q. What did you think the  
20 contract was for, Mr. Thornton?

21      MR. NELMS: Object to the  
22 form.

23      A. I didn't --

13 (Pages 301 to 304)

Page 305

1       Q. Did you not think that you had  
2 to sign a contract?

3           MR. NELMS: Object to the  
4 form. Object to the form.

5       A. I didn't know what document he  
6 was talking about. He didn't say a  
7 contract. He didn't state what it was.  
8 He said he had some things that he needed  
9 me to sign.

10      Q. Okay. And after looking at  
11 this P & D contractor business guide, the  
12 centerpiece of which is a signed  
13 contract --

14      MR. NELMS: Object to the  
15 form.

16      Q. -- you didn't think you had to  
17 sign a contract to become a contractor?

18      MR. NELMS: Object to the  
19 form.

20      A. He never told me to sign  
21 anything.

22      Q. Okay.

23      MR. NELMS: I would like the

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1       A. Okay.

2           Q. (BY MR. SPOTSWOOD:) Okay. On  
3 page 32 at the bottom and page 33 at the  
4 top. In your narrative, you state, and  
5 you're talking about Kent, "He told me  
6 one time when I was talking to him about  
7 the paperwork, he said that some guy  
8 named -- there was a guy there, you know,  
9 like I was saying, his name was  
10 Jermaine." And then, "Well, there was a  
11 guy named Jerome that messed up my  
12 paperwork."

13           Was it Jerome or Jermaine who  
14 messed up your paperwork?

15           A. I understood that it was  
16 Jerome. I was just making a distinction  
17 that there was two people with similar  
18 names.

19           Q. All right. And what was  
20 Jerome's last name?

21           A. I have no clue. I never met  
22 him.

23           Q. And did Kent tell you who he

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1 record to reflect that, in my humble  
2 opinion, Bob's tone and intonation in the  
3 last couple of questions verges on  
4 harassment.

5           MR. SPOTSWOOD: I don't  
6 appreciate that, Andy.

7           MR. NELMS: Including the  
8 tossing of Exhibit V, as in Victor, onto  
9 the table.

10          MR. SPOTSWOOD: This is not  
11 your deposition. If your witness feels  
12 like I'm harassing him, he is free to say  
13 that. I have asked him fair and  
14 reasonable questions in a professional  
15 manner for two days, and your description  
16 of my behavior is inaccurate.

17          MR. NELMS: The audiotape will  
18 reflect the tone of your voice.

19          A. Can I say one thing?

20          MR. NELMS: To me?

21          A. Pertaining to that document.

22          MR. NELMS: Answer his  
23 questions.

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1 was, where he was located, any  
2 particulars about Jerome?

3           A. No.

4           Q. So, according to this, on  
5 Monday night as Kent was coming back from  
6 Chattanooga, Tennessee where he had  
7 lived -- where his family lived at the  
8 time, and it's a Monday, I take it. This  
9 is the Monday after Mother's Day?

10           A. Yes, sir.

11           Q. He said, quote, I've got some  
12 bad news. He said -- I quote him. I  
13 have messed up some paperwork. Correct?  
14 That's what he told you?

15           A. Correct.

16           Q. He goes on to say here,  
17 according to your statement, "I signed  
18 some -- the wrong documents, and blah,  
19 blah, blah. And I sent them in, and I  
20 shouldn't have and -- one excuse after  
21 another. He said you can't start  
22 tomorrow." Did he explain what paperwork  
23 he had messed up?

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Page 309

Page 311

1       A. No, sir. Just paperwork.

2       Q. Okay. And you responded,  
3 "What do we need to do?" And, "He said,  
4 well, while I was in Chattanooga, I went  
5 by the terminal in Chattanooga, and I  
6 straightened everything out, and I sent  
7 it from Chattanooga to corporate (sic)."  
8 That's what he told you on that same  
9 telephone call we've been talking about?

10      A. Yes, sir.

11      Q. And then he went on to say, I  
12 should be hearing back from them  
13 Wednesday or Thursday. If I hear from  
14 them on Wednesday, we will start you on  
15 Thursday," correct?

16      A. Correct.

17      Q. You describe the rest of that  
18 conversation. Anything else take place  
19 in that conversation other than what's  
20 transcribed here --

21      A. No.

22      Q. -- or what you've summarized  
23 here?

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Page 312

1       A. No, sir.

2       Q. And you say -- so, Wednesday  
3 rolls around, and you did not hear  
4 anything from him, correct?

5       A. Correct.

6       Q. And Thursday rolled -- came  
7 around, according to this statement, and  
8 you went to the terminal?

9       A. Correct.

10      Q. And you didn't have an  
11 appointment to see him, obviously?

12      A. No, sir.

13      Q. And you say here, "He looked  
14 at me like I was fixing to jump on him or  
15 say something to him." Did he appear to  
16 be a little afraid of you, is that what  
17 you're saying here?

18      A. No, sir, he just seemed to be  
19 sort of nervous or on edge.

20      Q. Startled to see you perhaps?

21      A. Perhaps.

22      Q. And he told you, according to  
23 this transcript here, "he had not heard

1 from anybody and that what we was looking  
2 at was just starting the next Tuesday."  
3 That would have been the -- the Tuesday  
4 the week after Mother's Day, correct?

5       A. Yes, sir.

6       Q. And then you say, "well, that  
7 particular date would have been the 17th  
8 of May." So, what you're saying here is  
9 that Tuesday, that following Tuesday,  
10 would have been -- would be the 17th of  
11 May, if I'm reading this correctly, one  
12 week after Mother's Day, which I think is  
13 the 10th?

14      A. Yes. Yes, sir.

15      Q. So, this then gives clarity to  
16 the dates. The first Tuesday he told you  
17 that you would go to work would have been  
18 the 10th, and he called you on the 9th  
19 and told you that he had messed up and  
20 that you would not start until the 12th  
21 if everything came back, correct?

22      A. Correct.

23      Q. So, you call him on the 14th,

1 which is a Saturday, asking what was  
2 going on. Wait a minute. Step back  
3 here. Then your statement goes back to  
4 discussions with him on the 12th where  
5 you say what's got me concerned -- you  
6 basically talked to him about the fact  
7 that you've got a truck payment due on  
8 the 25th, and you're not going to have  
9 the money to make it.

10      So, what did he tell you about  
11 that when you were expressing concern  
12 about the upcoming truck payment and no  
13 route on this occasion?

14      A. Well, at that time that's when  
15 he expressed to me that he would be -- he  
16 would make the truck payment.

17      Q. All right. I see that later  
18 down here. Okay. Kent said -- on the  
19 bottom of the page, "Kent said I'm going  
20 to make your payment for you. I have  
21 talked it over with my wife, and I feel  
22 like I owe this to you." That's what he  
23 said to you, talking about on the bottom

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Page 315

1 of page 36?

2 A. Yes, sir.

3 Q. And in the meantime, you had  
4 spoken with Chad who said you had a  
5 ten-day grace period after the 25th?

6 A. That's correct.

7 Q. Is it correct that you could  
8 not afford to make that payment yourself?

9 MR. NELMS: Object to the  
10 form.

11 A. I could have dug down in  
12 savings. But just other than going into  
13 savings, retirement money, no.

14 MR. NELMS: Can we break?

15 MR. SPOTSWOOD: Yeah.

16 A. I need to go to the restroom.  
17 (Said deposition was in recess  
18 at 10:53 a.m. until 11:03  
19 a.m., after which the  
20 following occurred:)

21 Q. (BY MR. SPOTSWOOD:) I want to  
22 go back to Exhibit V for a second. Isn't  
23 it correct that Kent Gastineau showed

1 this specific document. I'm saying that  
2 this was the form of the contract --

3 A. No, he never went over that.  
4 He told me I just needed to read this  
5 book. He did not go to that page and  
6 state that.

7 Q. Okay. But couldn't you figure  
8 that out from looking at this document?  
9 You already testified that you took it  
10 home and then you read it. Didn't you  
11 then understand that you were going to  
12 have to sign a contract?

13 A. No, I did not.

14 MR. NELMS: Object to the  
15 form.

16 Q. You didn't figure that out?

17 A. No, I -- no, I did not.

18 Q. Okay. Did he talk to you  
19 about how the compensation system would  
20 work and how much money you'd get paid  
21 per delivery and that sort of thing?

22 A. He surely did. He explained  
23 to me the core zone. Each core zone paid

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Page 316

1 this to you and told you that this, in  
2 fact, would be the standard contract  
3 operating agreement that you would  
4 eventually have to sign?

5 A. No, sir.

6 MR. NELMS: Object to the  
7 form.

8 Q. He never told you that this  
9 was going to be the document that would  
10 define your business relationship with  
11 FedEx Ground?

12 MR. NELMS: Object to the  
13 form.

14 A. No, sir.

15 Q. Or FedEx Home Delivery?

16 A. If Kent Gastineau would have  
17 told me to read that and sign off, I  
18 would have sat right there and read it  
19 and signed it and handed it back to him  
20 because I signed every other document  
21 they asked me to sign.

22 Q. No, I understand. I'm not  
23 saying to you that he asked you to sign

1 a different amount. Each route paid a  
2 different amount. As far as the fuel, he  
3 gave me the -- the sheet over there to  
4 show me how the fuel was paid.

5 (Whereupon, Defendant's  
6 Exhibit VV was marked for  
7 identification.)

8 Q. Let's mark that separately.  
9 This is a document that has been just  
10 sitting inside the little flap here on  
11 Exhibit V, but I'll just mark that  
12 separately. This is Exhibit VV, what you  
13 have just testified to in reference --

14 A. Correct.

15 Q. -- to the fuel supplement?

16 A. Correct.

17 Q. And you didn't understand or  
18 know exactly what document he was trying  
19 to print out at the terminal on the day  
20 we just talked about, whether that was a  
21 contract or not?

22 A. That's correct.

23 Q. But in any case, you couldn't

16 (Pages 313 to 316)

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1 print out the document that he needed to  
2 allow you to go to work?

3 A. He could not print out the  
4 document that he was trying to print. I  
5 don't know what document that was.

6 Q. And at least as far as he was  
7 concerned, and he's the guy who controls  
8 whether you work that day, he couldn't  
9 put you to work without getting that  
10 document to print out?

11 A. I don't know.

12 Q. All right. You had a  
13 conversation with him on Saturday, the  
14 14th of May, according to this, and I'm  
15 looking at the bottom of page 37 and the  
16 top of page 38. "I called him and I said  
17 you know -- I asked him, I said, have you  
18 heard anything. He said, no, I have not  
19 heard anything. He said, Charlie, you  
20 know -- he sounded real nervous. He said  
21 I'm going to make your payment. He said  
22 but if you talk to anybody at FedEx, you  
23 do not tell them that I am I am going to

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1 make your payment." Is that correct?

2 A. That's correct.

3 Q. And then you go on to say  
4 here, "So in my mind, I'm thinking I'm  
5 going to turn around, when I get off the  
6 phone with Kent, I'll going to call Jeff  
7 White and find out what's going on with  
8 him. So, I finished my conversation with  
9 Kent. He just sounded like he could  
10 not -- he was beating around the bush,  
11 doesn't give me an answer why he hadn't  
12 got it back. He's -- he just sounded  
13 like there was a major problem." That's  
14 what your statement says here so far,  
15 correct?

16 A. Correct.

17 Q. "I called Jeff. Jeff said,  
18 Charlie, I've got your contract. He said  
19 I've got your contract in my hand. I've  
20 got your paperwork from your truck in my  
21 hand." I'm going to call -- "I'm going  
22 into a meeting at 3:00, and I will call  
23 you and let you know what's going on."

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1 And that's Jeff White you're talking  
2 about, right?

3 A. Correct.

4 Q. And that's before you recorded  
5 conversations, so that conversation is  
6 not recorded, correct?

7 A. Correct.

8 Q. "And I told Jeff, I said,  
9 Jeff, if you want to call Kent and tell  
10 Kent he can call me, that will be fine."  
11 So, you waited until Monday, which was  
12 the 16th. I waited until the early  
13 afternoon. You called Kent that  
14 afternoon, and this is when you get the  
15 news. "He says, Charlie, there's no  
16 routes available. They did not approve  
17 the route. They messed up the truck,  
18 this, that and the other (sic)." Is this  
19 the first time that he told you that the  
20 route just was not approved, correct?

21 A. Correct.

22 Q. And when you say here -- and  
23 this is Kent supposedly talking, they

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1 messed up the truck, did you understand  
2 that to mean they shouldn't have let you  
3 get the truck without that route being  
4 approved?

5 A. No, sir. At the time I did  
6 not understand what he was talking about.

7 Q. Okay. But you understood that  
8 later, that's what he was talking about?

9 A. Not in those -- I don't -- I  
10 never did know what he meant by messed up  
11 the truck.

12 Q. Okay. But according to this  
13 statement, you told him, "You mean I  
14 don't even have a route to go to work,  
15 and you guys have approved this truck?"

16 A. Correct.

17 Q. So, you didn't think that's  
18 what he was talking about when he said  
19 messed up the truck?

20 MR. NELMS: Object to the  
21 form.

22 A. I didn't understand what he  
23 meant by messed up the truck.

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1       Q. Okay. So, you then called  
2 Jeff White, correct?

3       A. Correct.

4       Q. And this is, again, on Monday,  
5 if I'm not mistaken, the 16th? That's  
6 how it seems --

7       A. Yes, sir.

8       Q. -- the same day you were  
9 talking to Kent?

10      A. Yes.

11      Q. And if I understand your notes  
12 here correctly, you didn't really have a  
13 substantive conversation with Charlie  
14 about what happened here, but you just  
15 agree that you all have a conference call  
16 in -- on the 17th and talk about the  
17 situation?

18      A. You're talking about with  
19 Jeff?

20      Q. Yes.

21      A. Yeah, Jeff told me to call him  
22 the next day. That's correct.

23      Q. He didn't tell you what

1 see that answer to that question in here.

2       A. He said, well, with this route  
3 and like this, and it's -- so, I mean,  
4 they should have known their job. They  
5 should have known their job. It wasn't  
6 for me to know their job. They should  
7 have known their job and whatever.

8       Q. Well, that's what I'm having  
9 trouble with. Who's talking here, you or  
10 Kent?

11      A. Kent.

12      Q. Kent is saying they should  
13 have known their job?

14      A. Let me go back and read this.

15      Q. It wasn't for me, Kent, to  
16 know their job; they should have known  
17 their job or whatever? I'm just having  
18 trouble --

19      A. That's Kent. That's what Kent  
20 said.

21      Q. All right. And then you  
22 called Jeff back, according to this  
23 statement. This is still Monday, the

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1 happened or --

2       A. No, sir. He was just brief,  
3 to the point.

4       Q. And then when you later talked  
5 to Kent on that same day, according to  
6 your statement, the only thing he said to  
7 me was that Jeff told him, him being  
8 Kent, that he blind-sided him. Who blind  
9 sided whom here. I'm a little bit  
10 confused, that Kent had blind-sided Jeff?

11      A. Correct.

12      Q. "I couldn't get it out of him  
13 what he meant by blind-sided him" is what  
14 you say here?

15      A. Right. That's correct.

16      Q. And you say here, "I kept on  
17 asking him, well, Kent, what do you mean  
18 by blind-sided me." What did Kent say in  
19 response?

20      A. Whatever the document here  
21 says. I don't recall. I would have to  
22 read this.

23      Q. Well, go ahead because I don't

1 16th, correct?

2       A. Correct.

3       Q. And you called Jeff back, and  
4 you told him about the truck payment  
5 situation. You told him that Kent said  
6 he was going to make the payment.

7       A. I told Jeff that after the  
8 fact that Jeff just -- he sounded like he  
9 didn't give a crap. That was my  
10 responsibility, and he didn't care.  
11 Well, I was already upset, and that's  
12 when I proceeded to tell him that Kent  
13 said he would make a payment. I was  
14 very, very, very frustrated.

15      Q. And your testimony is that  
16 Jeff didn't appear to be concerned about  
17 the situation?

18      A. Prior to telling him about  
19 Kent?

20      Q. Yeah, that you had a truck,  
21 you didn't have a route --

22      A. That's exactly right. Exactly  
23 right.

18 (Pages 321 to 324)

Page 325

1 Q. Well, what words did he use to  
2 give you the impression that he wasn't  
3 concerned about your situation?

4 A. It was my responsibility that  
5 FedEx had no responsibility.

6 Q. And then we come to Tuesday,  
7 which is the 17th, and you talk to a  
8 young woman named Carol, correct, right?

9 A. Correct.

10 Q. And that's when we start  
11 recording conversations, correct?

12 A. I am not sure.

13 Q. Well, let's just see if we can  
14 figure this out. It's not very hard.  
15 Here is Exhibit O, and the very first  
16 entry here is phone call to Jeff White,  
17 and one transcript calls her Carol and  
18 the other transcript calls her Cheryl.  
19 Are these the same people that you're  
20 talking about?

21 A. Yes.

22 Q. Okay. So, we couldn't figure  
23 out before what date that conversation

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1 was, but it would appear, then, that this  
2 is Tuesday, the 17th of May that your  
3 phone call to Jeff White as reflected on  
4 Exhibit O occurred.

5 A. When I spoke to Carol, it was  
6 the day of the conference call. It  
7 should have been the day of the  
8 conference call.

9 Q. All right. And you -- well,  
10 look here. On your own recorded notes,  
11 you say, Come Tuesday at 10:15 I made a  
12 phone call, and the number was. You give  
13 the number. "And I talked to a young  
14 lady by the name of Carol. I told her  
15 who I was and the reason why I was  
16 calling, and I wanted -- I needed to  
17 speak to Jeff. And she told me that Jeff  
18 was in a meeting and that she needed to  
19 go back there and tell him I was on the  
20 phone. So, she did that. And when she  
21 came back, she said Jeff told me to tell  
22 you that he would call you that  
23 afternoon -- which was Tuesday

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1 afternoon -- he would call me and talk to  
2 me." And you gave her your phone number,  
3 got off the phone. All right.

4 Isn't that the conversation  
5 that's recorded here?

6 A. Sure.

7 Q. All right. Well, that's all  
8 I'm trying to find out.

9 A. Well, I'm not -- I'm not sure  
10 if that's when the conversations were  
11 being taped. That's all I'm saying.  
12 Yeah, that's correct. You're correct.

13 Q. So, this is the conversation  
14 that you're making reference to here? I  
15 need to be more specific for the record.  
16 The conversation that we just talked  
17 about here in Exhibit O is the  
18 conversation that you are describing on  
19 page 43 of Exhibit N?

20 A. Possible. I'm not even  
21 looking at it. I probably need to look  
22 at it too.

23 Q. That's Exhibit N right there

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1 in front of you. Just flip off --  
2 actually you've got --

3 MR. NELMS: He's on page 43.

4 Q. You're on page 43. Here's  
5 Exhibit O, and that's what I'm talking to  
6 you about, and, you know, it's very  
7 short.

8 A. Right.

9 Q. It's just two pages.

10 A. That's correct.

11 Q. And that would clarify that  
12 this conversation happened on Tuesday,  
13 the 17th of May?

14 A. You're correct. That's  
15 exactly right.

16 Q. And from that point forward,  
17 all of your communications with FedEx  
18 that were on the phone were recorded?

19 A. Correct.

20 Q. And then you make reference to  
21 a conversation with Kent in this  
22 statement I called Kent, and that's one  
23 of the recorded conversations here, I

19 (Pages 325 to 328)

Page 329

1 take it. You recorded all your  
 2 conversations with Kent after that point  
 3 in time?

4       A. Yes, sir.

5       MR. SPOTSWOOD: I have  
 6 probably about an hour or so more to go.  
 7 I'd like to take a lunch break, if we  
 8 could.

9       MR. NELMS: Okay. I didn't  
 10 realize it was that late.

11      MR. SPOTSWOOD: Yeah. And  
 12 come back. I don't care, a quarter to  
 13 one. If that's all right. About an hour  
 14 and 15 minutes, and then I think we'd  
 15 probably be able to wrap everything up by  
 16 two or three, if that's all right with  
 17 you guys.

18      MR. NELMS: Okay. That's  
 19 super.

20      (Said deposition was in recess  
 21 at 11:22 a.m. until 1:08 p.m.,  
 22 after which the following  
 23 occurred:)

1 premium up here of 922.57, so the  
 2 difference between those two numbers  
 3 would appear to be what your  
 4 out-of-pocket cost was for the insurance.  
 5 And, then, on disability, that premium  
 6 was \$2,368.63. It looks like the refund  
 7 here was \$2,237.79. So, we have totals  
 8 in both places, so your total refund was  
 9 \$3,109.47, and your total charged premium  
 10 was \$3,291.20, so the actual cost  
 11 differential to you was the difference  
 12 between those two numbers. Does that  
 13 sound right?

14       A. Are you saying they refunded?

15       Q. I'm saying there was a refund  
 16 of this premium according to these  
 17 records.

18       A. That's news to me.

19       Q. All right. Well, let's go off  
 20 the record for just a second.

21       (Off-the-record discussion.)

22       Q. (BY MR. SPOTSWOOD:) Let's go  
 23 back on the record here. Mr. Thornton,

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1       (Whereupon, Defendant's  
 2 Exhibit WW was marked for  
 3 identification.)

4       Q. (BY MR. SPOTSWOOD:) Let me  
 5 show you Defendant's Exhibit WW, Mr.  
 6 Thornton, and these -- I think your  
 7 attorney will agree with me, are the  
 8 documents that were just faxed today to  
 9 Jay Lewis from Stearns Bank, so can you  
 10 confirm that's what we're looking at  
 11 here?

12       A. Yes, sir.

13       Q. All right. Most of these  
 14 documents in here I think we've already  
 15 talked about. What I do see, though, is  
 16 a premium refund receipt schedule, and  
 17 this is in connection with your life and  
 18 disability coverage that you got in  
 19 connection with the vehicle. It says a  
 20 date -- it has a date of cancellation,  
 21 6/30/05. It says the policy was in force  
 22 for two months, and it shows a refund of  
 23 \$871.68, and I think that's against this

1 was it your understanding that this  
 2 premium total here of \$3,291.20 was part  
 3 of what was included in the note in the  
 4 total amount of -- well, let me strike  
 5 that.

6       And I think we've already been  
 7 through this conditional sales contract,  
 8 too, but the second document in Exhibit  
 9 WW is the conditional sales contract, and  
 10 it says, "Buyer agrees to pay \$35,148.88  
 11 as and for the purchase of the  
 12 equipment," which was the truck, correct?

13       A. Right.

14       Q. And, then, "Buyer further  
 15 agrees to further pay \$3,291.20 as  
 16 premium for the credit insurance  
 17 coverage, which premium is to be included  
 18 in the periodic installments referred to  
 19 in paragraph 4(b) below," correct?

20       A. Correct.

21       Q. Okay. So, that was included.  
 22 So, what happened here, apparently when  
 23 we go back and look at the cancellation,

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1 is that this was -- this amount that we  
 2 talked about \$3,109.47 was something that  
 3 was credited over against the outstanding  
 4 indebtedness when it was refunded. Is  
 5 that the way you understand it would have  
 6 worked, if you know? You may not know?

7       A. Well, that's the way it reads.

8 Now, when you say refunded --

9       Q. I mean basically given to the  
 10 bank in partial payoff of the  
 11 obligations, correct?

12      A. Yes. Yes.

13           (Whereupon, Defendant's  
 14 Exhibit I was marked for  
 15 identification.)

16       Q. If you would, please have a  
 17 look at Defendant's Exhibit --

18       MR. PARKER: I.

19       Q. -- I. I was going to ask if  
 20 these are the -- if this document is the  
 21 initial disclosure form that your counsel  
 22 provided in connection with the lawsuit.

23      A. (Examining document.) Yes.

1 documents. Is that your understanding as  
 2 well?

3       A. Yes.

4       Q. All right. Now, let me ask  
 5 you to have a look at Defendant's Exhibit  
 6 K.

7           (Whereupon, Defendant's  
 8 Exhibit K was marked for  
 9 identification.)

10       Q. Now, these were served on us  
 11 and appear to be your answers to our  
 12 interrogatories.

13       A. Yes.

14       Q. And you did, in fact, sign  
 15 those, did you not?

16       A. Yes.

17       Q. Going back for a second to the  
 18 two security companies that you had an  
 19 ownership interest in. My recollection  
 20 is that I did ask you some questions  
 21 about the sale of American Shield, but I  
 22 forgot to ask you about the sale of  
 23 Security Experts. Did you and your

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1           (Whereupon, Defendant's  
 2 Exhibit J was marked for  
 3 identification.)

4       Q. Now, if you would, have a look  
 5 at Exhibit J. I'd like you to confirm  
 6 for me that these are your answers to the  
 7 first request for production of documents  
 8 in this case.

9       A. (Examining document.) I  
 10 really don't understand this document  
 11 right here. What is it?

12       Q. Well, this is -- these are --  
 13 Exhibit J is, I will tell you, a  
 14 pleading, or rather a discovery response  
 15 that was served on us by your counsel,  
 16 and it is signed by your counsel. You're  
 17 not actually required to sign this  
 18 document yourself, and I don't think you  
 19 did.

20      A. Oh, I see. Okay.

21       Q. But I believe it is undisputed  
 22 that this is -- these are the responses  
 23 you made to our request for production of

1 partner in that business sell that  
 2 business?

3       A. No, we just dissolved the  
 4 business.

5       Q. So, you didn't actually  
 6 recover any income from the sale of  
 7 either one of those businesses?

8       A. No, I did not.

9       Q. Do you remember when Security  
 10 Experts was shut down?

11       A. Not -- no, sir, I -- not  
 12 exactly as far as a date.

13       Q. In your answer to  
 14 interrogatory number seven, if you'll  
 15 look at Exhibit K there, you were asked  
 16 identify any offers of employment or  
 17 specific employment opportunities that  
 18 you declined in 2005, and your answer  
 19 then was none.

20      A. Right.

21       Q. If I recall correctly from  
 22 your testimony, you did, in fact, have an  
 23 opportunity to go to State Farm that you

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1 declined in 2005, is that right?

2 A. That is exactly right.

3 Q. Okay. And that's the  
4 opportunity that your wife took advantage  
5 of, correct?

6 A. I recommended her for the job.

7 Q. And she was offered it and  
8 took it?

9 A. Yes. Yes.

10 Q. Apart from that opportunity --  
11 and that's what she's doing today, if I  
12 remember correctly?

13 A. That's right.

14 Q. Apart from that opportunity,  
15 were there any other offers of employment  
16 or specific opportunities for employment  
17 that you declined in 2005?

18 A. No, sir.

19 Q. I am going to call your  
20 attention to interrogatory 11. In that  
21 interrogatory we asked you about damages,  
22 and specifically we asked you to identify  
23 and describe in detail any damages

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1 incurred by the plaintiff allegedly  
2 resulting from any act or omission on the  
3 part of FedEx Ground, including the  
4 nature of the damages, the total amount,  
5 the method of computation and any  
6 evidence you intend to use to support or  
7 substantiate any such damages. And I  
8 want to ask you some questions now about  
9 your response. Your first response is I  
10 lost income. What income did you lose?

11 A. Working income as far as being  
12 employed.

13 Q. Being employed as what, a  
14 driver for FedEx?

15 A. No, just income.

16 Q. All right. And you say you  
17 lost income. Is that because during this  
18 roughly five-month period of time you  
19 were aggressively looking to get a job at  
20 FedEx and you were not looking elsewhere?

21 A. That's exactly right. I was  
22 not looking to get a job. I felt like I  
23 had the job.

1 Q. All right. You then say --

2 any other lost income that you were  
3 talking about except for what you just  
4 described?

5 A. Sure. After the fact of being  
6 unemployed after all this came to a  
7 screeching halt, loss of income there.

8 Q. Until you could find a job?

9 A. Right.

10 Q. Do you have any idea how much  
11 lost income you're talking about?

12 A. No, I do not.

13 Q. You then say, as part of your  
14 damage request, I lost medical insurance  
15 for the family. What medical insurance  
16 were you talking about?

17 A. My medical insurance for me  
18 and my wife, family coverage.

19 Q. And you --

20 A. I could not afford it.

21 Q. You couldn't afford it because  
22 you didn't have the job with FedEx that  
23 you had hoped to get?

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1 A. Yes.

2 MR. NELMS: Object to the  
3 form.

4 Q. When did you obtain medical  
5 insurance for the family in 2005?

6 A. I do not remember the -- the  
7 date.

8 Q. Is it something that you got  
9 through your wife's employment?

10 A. No.

11 Q. But you and she had to go out  
12 and buy a policy?

13 A. Yes.

14 Q. And you don't remember exactly  
15 when that was?

16 A. It was during the five months.

17 Q. That you got a policy?

18 A. Yes, I did.

19 Q. Okay. If I understand you  
20 correctly from your responses to these  
21 interrogatories, you did have a medical  
22 expense of \$475 that you had to pay with  
23 your credit card because you did not have

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1 insurance. That's in response to  
2 interrogatory 13.

3 A. That's correct.

4 Q. Did you have any other medical  
5 related or hospital or expenses that were  
6 unreimbursed by insurance during this  
7 period when you didn't have insurance?

8 A. No, sir.

9 Q. When did you lose the  
10 insurance policy that you ultimately  
11 wound up -- when was the last time before  
12 you bought the policy in this five-month  
13 period that you previously had had an  
14 insurance policy for medical care?

15 A. Restate the question, please.

16 Q. What I'm trying to find out is  
17 how long were you uninsured, from what  
18 period up until -- you said at some point  
19 in time in the five-month period we've  
20 been talking about, you know, from  
21 January through May, that you did go  
22 ahead and get an insurance policy?

23 A. Correct.

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1 Q. You went out and bought one?

2 A. Correct.

3 Q. My question to you is how long  
4 a period of time had you been uninsured?

5 A. Previous to that?

6 Q. Yes.

7 A. I was not uninsured. I was  
8 under a COBRA plan.

9 Q. Okay. So, you were paying  
10 your COBRA coverage?

11 A. Yes.

12 Q. And then -- well, then maybe  
13 you were never uninsured. That's what  
14 I'm trying to find out. When were you  
15 uninsured?

16 A. After I canceled my -- the  
17 policy that we went out and took with  
18 Mega -- Mega Health and Life. When I  
19 knew that this -- okay. Let me back up.

20 We took out the policy when  
21 the COBRA ran its course.

22 Q. Which is what, usually  
23 18 months or so?

1 A. Well, it -- the COBRA had not  
2 actually ran its course. The COBRA was  
3 more expensive than what we were taking  
4 out.

5 Q. Okay.

6 A. So, we inquired of Mega Health  
7 and Life, had a representative to come  
8 down and sit down with us, and we took  
9 out a policy. That was a lot cheaper  
10 than COBRA.

11 Q. Okay.

12 A. And we kept that until I just  
13 knew I could not continue to pay 600  
14 something dollars a month or thereabouts.

15 Q. All right. And, then, so, how  
16 long after that policy was terminated  
17 were you uninsured?

18 A. I'm uninsured now.

19 Q. You don't have any health  
20 insurance at this time?

21 A. No, sir.

22 Q. And is your wife -- does she  
23 have any insurance?

1 A. He does not supply insurance.

2 Q. No, I'm asking is she covered  
3 by a health insurance policy?

4 A. No, she is not.

5 Q. Are any of your children  
6 covered by any health insurance?

7 A. I can't speak for them. They  
8 are on their own.

9 Q. Okay. And have you had -- let  
10 me ask this question again: Have you had  
11 any medical expenses that you've had to  
12 pay out of your own pocket that otherwise  
13 would have been paid by insurance except  
14 for the \$475?

15 A. Sure.

16 Q. Okay.

17 A. My wife's medicine. She takes  
18 a thyroid medication. As far as myself,  
19 basically if I went to PriMed for flu,  
20 which I have had and the medication, you  
21 know, that was prescribed from that, I've  
22 had to pay it out my pocket.

23 Q. Do you have any idea generally

23 (Pages 341 to 344)

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1 of how much money we're talking about?  
2 A. No, sir, I -- I do not. I  
3 wouldn't -- I would hate to say and it be  
4 incorrect.

5 Q. Okay. But it would have been  
6 treatment at a -- for the flu --

7 A. Yes.

8 Q. -- and any related medications  
9 for that?

10 A. Yes.

11 Q. Do you have any judgment of  
12 how many times you visited Prime Care or  
13 Prime Aid?

14 A. I think it's been maybe two to  
15 three times.

16 Q. You then list as an element of  
17 damages stress, and along with that, you  
18 also say "my health declined." Can you  
19 tell me what stress-related or  
20 health-related issues that you attribute  
21 specifically to what we've been talking  
22 about involving FedEx Ground?

23 A. There's a number of things.

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1 A. Yes.  
2 Q. -- on August the 10th, 2005?  
3 A. (Nodding head affirmatively.)  
4 Q. Correct?

5 A. Yes.

6 Q. And what were your symptoms  
7 when you went to see her?

8 A. I had been having a breathing  
9 problem, extreme headaches. My eyes felt  
10 like they were swollen, couldn't sleep.  
11 Such as that. And it -- it just got to  
12 the point where I felt like I had to go  
13 and do something.

14 Q. All right. So, she did an  
15 evaluation of you?

16 A. Yes.

17 Q. What did she diagnose you  
18 with?

19 A. My blood pressure was  
20 extremely high. She wondered how I had  
21 not already possibly had a stroke.

22 Q. And, so, she diagnosed you  
23 with hypertension?

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1 Stress related to seeking employment,  
2 stress of no additional income coming in,  
3 the worry, stress between the wife and  
4 myself trying to figure out what we're  
5 going to do because this was such a --  
6 you know, it was such a positive thing,  
7 and then, boom, it was like the rug was  
8 pulled out from under me. I mean, you  
9 know, I don't know if you can put it in  
10 words to accurately explain how stress  
11 works on you, but it definitely worked on  
12 me, keeping it inside, thinking about it  
13 continuously, and every -- you know,  
14 looking for the job and stuff like that.

15 Q. Okay.

16 A. And that has caused my blood  
17 pressure to -- I never had a problem  
18 before. I didn't even realize what the  
19 problem was until I went to the doctor.  
20 I thought I was going to die or pass out.

21 Q. And the reference about going  
22 to the doctor, is that your visit to Dr.  
23 Marla Wool --

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1 A. Hypertension, yes, sir.  
2 Q. And she prescribed medications  
3 for you, and we've already talked about  
4 that?

5 A. Yes, sir. Yes, sir.

6 Q. Are you still taking your  
7 hypertension medication?

8 A. Yes, sir.

9 Q. And have you had any follow-up  
10 visits with Dr. Wool?

11 A. Yes, I have.

12 Q. And what has she been telling  
13 you about your hypertension?

14 A. Basically it's just a review  
15 of the medication and how it's working  
16 and see if it's regulated.

17 Q. Is it?

18 A. Yes.

19 Q. Were there any other impacts  
20 on your health other than what you've  
21 described so far?

22 A. Not really. I mean, it was --  
23 you know, there's -- no.

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1       Q. The next item of damages that  
2 you mentioned is "lost my home due to  
3 significant loss in income." I thought  
4 your home was paid for and --

5       A. It is. I have two homes. I  
6 inherited my father's home, and --

7       Q. That's the one in Chilton  
8 County we discussed?

9       A. That's correct.

10      Q. All right. And how did you  
11 lose that home?

12      A. Well, I -- I took out a  
13 mortgage on the home in 2004 to pay off  
14 my home here and do some things in the  
15 home and --

16      Q. When you inherited the  
17 property, it was free and clear of any  
18 kind of mortgage, correct?

19      A. Right. And --

20      Q. What was the amount of the  
21 mortgage that you took out in 2004,  
22 roughly?

23      A. 60,000. And I had a -- my son

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1 anything to the property, land. You  
2 know, I just needed somebody to secure  
3 that money because my name was on the  
4 line until they can get financing. And  
5 this was the only opportunity that I had,  
6 and I had to take -- take an opportunity.

7       Q. And who is living in the house  
8 now?

9       A. Keith Mitchell. Keith  
10 Mitchell and his wife Lorna.

11      Q. Are they any relationship to  
12 you?

13      A. Yes, she is.

14      Q. What is she?

15      A. She's like a step-cousin.

16      Q. Okay. So, she's related  
17 directly to your wife?

18      A. No, she would have been -- she  
19 would have been related to me.

20      Q. Okay. Right. And I'm sure  
21 there are documents that reflect this?

22      A. Oh, yes, I have those  
23 documents.

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1 was living there, which there was no  
2 problem with that, and he was -- he was  
3 basically making the payments, and then  
4 he had -- he had to move out because of  
5 his job, so I had to put the home up for  
6 sale. I could not make the payments in  
7 2005. The house appraised for 80 --  
8 84, \$85,000, and I had to make a  
9 decision, because I could not make the  
10 payments, either to lease the house out  
11 with the option to buy at the payoff  
12 price.

13      Q. Which was roughly 60 grand?

14      A. Well, at that time it was not  
15 60. I think it was like -- I'm not  
16 really sure exactly what it was at the  
17 time. Mid-fifties. Or either lose the  
18 house. And I had to draw up -- have the  
19 papers drawn up stating that, you know,  
20 as long as they -- and I believe  
21 they will. As long as they'll make the  
22 payments and do what they -- I will not  
23 kick them out of the house. They can do

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1       Q. And when was this deal  
2 structured and put into place?

3       A. It was -- I don't know the  
4 exact date. It was the latter part of  
5 2005.

6       Q. The other thing you say here  
7 is, as an element of damage, is that "it  
8 depleted my savings." Can you be more  
9 specific about what you mean by that?

10      A. Well, Debbie and I had  
11 savings. Also, when her mother passed  
12 away, she inherited some money. It took  
13 that money and our savings to -- to make  
14 ends meet.

15      Q. For 2005?

16      A. Yes. And that was -- I think  
17 that was very hard on my wife because of  
18 the money that her mother had saved for  
19 her.

20      Q. Do you recall the amount of  
21 the inheritance?

22      A. No, sir, I do not.

23      Q. The next item that you list

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1 here is "lost the down payment on my  
2 truck and tag for my truck." The truck  
3 you're talking about and the down payment  
4 and the tag is the truck that's been the  
5 subject of much discussion in these last  
6 two days, correct?

7 A. That's correct.

8 Q. You then say, quote, I was  
9 extremely embarrassed and humiliated  
10 after having to tell family and friends I  
11 was no longer employed. Given -- I guess  
12 I -- can you explain that to me?

13 A. Well, of course, you know, we  
14 live in a -- we live in a cul-de-sac, at  
15 the back end of the cul-de-sac. I know  
16 my neighbors, and, you know, everybody  
17 knew that I was going to work for FedEx.  
18 I mean, just in talking. We talk.  
19 Church members, pastor, you know, we --  
20 in general talk, and, you know, they  
21 would ask how things are going, and then  
22 it's -- it's very humiliating to tell  
23 someone, well, you know, this is -- I

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1 don't understand what's going on. You  
2 don't have the answers to their  
3 questions. They are concerned, but you  
4 just don't know how to answer those  
5 questions, and it is very humiliating.  
6 And then, you know, you're going to work  
7 for, you think, what is a great company.  
8 Or you're going to represent a great  
9 company. And then you're in a position  
10 to where you're looking for a job and  
11 people are concerned and say, you know,  
12 how is it going looking for a job and all  
13 like that. I mean, it's very humiliating  
14 and stressful.

15 Q. Are there any other elements  
16 of damages that you haven't told us  
17 about? That's all you listed in your  
18 interrogatory responses. Anything else?

19 A. Well, you know, like I was  
20 saying earlier, it's taken a toll on me  
21 as far as my health, as far as Debbie and  
22 I -- it's been stressful for me and my  
23 wife, not knowing what's around the

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1 corner. And the most puzzling thing of  
2 the whole ordeal, and maybe it's just  
3 because of the person I am, because I've  
4 always been taught to have high  
5 integrity, be honest with people and  
6 treat everybody right, is why in the  
7 world, since I went through what I went  
8 through and was asked -- asked to do what  
9 I was asked to do, somebody didn't have  
10 the decency and the respect to just pick  
11 up the phone and say, Charlie, we're  
12 wrong; we need to find out why and let  
13 you know why or make some type of amends.  
14 It was like we don't give a crap about  
15 you. You're finished, boom. And I'm  
16 left like a fish out of water, and we  
17 know what a fish does out of water, to  
18 flounder at my own expense.

19 We -- you know, we lost --  
20 we -- it was a stressful situation  
21 altogether because my wife lost her  
22 father in December. My wife lost her  
23 mother in February. December of 2004 he

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1 passed away; February of 2005, she passed  
2 away. My dad had passed away a year  
3 before. A year and a half before that,  
4 my mom passed away. We were trying -- we  
5 were trying to deal with all this, and  
6 then, bam, this comes in too, you know.  
7 But it's -- it's very stressful. I hope  
8 none of you guys ever have to go through  
9 this.

10 Q. Have you had any counseling  
11 from any kind of a healthcare  
12 professional?

13 A. No, sir, just my pastor.

14 Q. And have you and your wife had  
15 any marriage counseling that you  
16 attribute in any way to this situation?

17 A. No, sir, just the pastor of  
18 the church, which we've known him for  
19 years.

20 MR. SPOTSWOOD: Off the record  
21 for a second.

22 (Off-the-record discussion.)  
23 (Said deposition was in recess)

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1 at 1:42 p.m. until 1:45 p.m.,  
2 after which the following  
3 occurred:)

4 A. I have one other thing.

5 Q. Go ahead.

6 A. As far as damages also, I've  
7 always paid my child support. I have one  
8 son that is -- still with his mom, and  
9 there was no way that I could pay my  
10 child support. I have just hoped and  
11 prayed that she has not come after me for  
12 that, which she has not, but I still owe  
13 it to her and --

14 Q. How do you pay child support?  
15 Do you mail her a check?

16 A. No, sir. I go through the  
17 court system to where everything is  
18 documented.

19 Q. And how much in arrearage are  
20 you in your child support?

21 A. I couldn't really tell you an  
22 exact figure. I don't know.

23 Q. Give me a within \$10,000

1 MR. NELMS: K or C.

2 A. It's a C.

3 Q. C-A-Y --

4 A. C-A -- yeah. I assume. We  
5 don't correspond.

6 Q. I understand.

7 (Whereupon, Defendant's  
8 Exhibit XX was marked for  
9 identification.)

10 Q. Let me show you Defendant's  
11 Exhibit XX, which is a document that was  
12 produced to me yesterday. What is that?

13 A. (Examining document.) On,  
14 this is just a -- this was pulled up on  
15 Careerbuilder as far as a job posting of  
16 FedEx when this -- it was --

17 Q. What did it --

18 A. 10/12/2005. They had actually  
19 posted another job opening -- no, it was  
20 September the 24th of 2005 when it was  
21 posted for -- for Home Delivery, for  
22 another contractor, Ground and FedEx Home  
23 Delivery for the Montgomery area.

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1 estimate.

2 A. I -- I'm not even going to  
3 speculate on that. I don't know. I know  
4 it's \$358 a month, but I do not know --

5 Q. Well, do you remember the last  
6 time you made a child support payment?

7 A. No, I'd have to look. That  
8 was -- it was in 2005, but I don't know  
9 when the last -- the last month.

10 Q. And where is that Family  
11 Court --

12 A. Chilton County.

13 Q. -- pending? Chilton County.  
14 And what's the style of the case? Would  
15 it be Thornton versus Thornton?

16 A. I assume, yeah.

17 Q. I know you probably told me  
18 this already, but what is your wife's  
19 name now, your former wife's name?

20 A. Cahill.

21 Q. Cahill?

22 A. (Nodding head affirmatively.)

23 Q. K-A-Y-H-I-L-L?

1 Q. All right.

2 A. And it -- and it says asked  
3 for Kent Gastineau, operations manager.

4 Q. All right. So, did you call  
5 up Kent Gastineau and tell him you still  
6 wanted a job?

7 A. No, sir, I did not. No. No.

8 Q. The fact of the matter is that  
9 you had had it with FedEx at the time you  
10 filed this lawsuit, correct?

11 MR. NELMS: Object to the  
12 form.

13 Q. You were no longer interested  
14 when you filed this lawsuit?

15 A. I did not file a lawsuit. I  
16 came to Andy asking him what my rights  
17 were.

18 Q. Well, you filed a lawsuit,  
19 sir.

20 A. I did, after counsel with  
21 Andy.

22 Q. All right.

23 A. I did not have any hard

27 (Pages 357 to 360)

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1 feelings toward anybody. I was very  
2 disgusted because they had not treated me  
3 as fair as I had treated them, and I  
4 could not understand several things like  
5 job postings when I'm sitting at home  
6 waiting for the phone to ring to go to  
7 work, they are still putting ads in the  
8 paper wanting people to come to work to  
9 be a contractor. Now, if you can make  
10 heads or tails of that, you're a better  
11 man than I am.

12 Q. Well, have you seen or heard  
13 or learned anything from your experience  
14 with FedEx that indicates to you, and you  
15 were there, that somebody other than you  
16 got a route in Montgomery, Alabama other  
17 than Isaac Scott during this period we're  
18 talking about?

19 A. Somebody else got a route?

20 Q. Yes.

21 A. The only ones that I know that  
22 got a route were the other contractors  
23 that were assigned the routes that were

1 A. Oh, no, no, no, no, no, no.  
2 Q. But you seem to be critical of  
3 the fact that the company is soliciting  
4 interest in people to --

5 A. It's very misleading.

6 Q. You consider anytime that they  
7 have an informational session without  
8 having a specific route available to be  
9 misleading?

10 A. It is misleading if it is  
11 handled the way it was handled with me.

12 (Whereupon, Defendant's  
13 Exhibit YY was marked for  
14 identification.)

15 Q. All right. Let me show you  
16 Defendant's Exhibit YY. Is this a  
17 copy --

18 A. Yes, it is.

19 Q. -- of the front of a credit  
20 card, an American Express business card  
21 with your name on it that you were given,  
22 I'm going to assume, in April, maybe  
23 of '05?

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1 said -- that were available.

2 Q. I mean, somebody from outside  
3 the company who wasn't already a driver,  
4 did anybody outside the company other  
5 than Isaac Scott who was temporary get a  
6 route during this period of time we're  
7 talking about?

8 MR. NELMS: When you say "this  
9 period of time we're talking about," are  
10 you talking about during his period of  
11 time from, say, January till --

12 MR. SPOTSWOOD: Yeah, till he  
13 sued us.

14 MR. NELMS: Till May.

15 MR. SPOTSWOOD: Yeah.

16 MR. NELMS: Of 2005.

17 MR. SPOTSWOOD: Yeah.

18 MR. NELMS: Okay. If you  
19 know.

20 A. You're saying someone else got  
21 a route.

22 Q. No, I'm asking you if you're  
23 aware of anybody else getting a route.

1 A. Yes.

2 MR. SPOTSWOOD: Are you going  
3 to have some questions, do you think?

4 MR. NELMS: (Nodding head  
5 affirmatively.)

6 MR. SPOTSWOOD: All right. If  
7 you don't hold me strictly to the -- you  
8 know, don't cover anything new, I'm going  
9 to pass the witness to you, and I'm  
10 going -- while you're asking your  
11 questions, I'll look at my notes to see  
12 if I've got anything else.

13 MR. NELMS: Okay. That's fair  
14 enough.

15 MR. SPOTSWOOD: I'll do that.

16 A. Can I run to the restroom?

17 MR. NELMS: No. Just kidding.  
18 (Said deposition was in recess  
19 at 1:52 p.m. until 1:54 p.m.,  
20 after which the following  
21 occurred:)

22 Q. (BY MR. SPOTSWOOD:) Let me  
23 ask a couple of other questions before

28 (Pages 361 to 364)

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1 you get started, Andy. On Exhibit YY,  
2 who gave that to you?

3 A. American Express.

4 Q. Was it sent to you in the  
5 mail?

6 A. Yes.

7 Q. Okay. Did Kent say anything  
8 to you about it?

9 A. About receiving this?

10 Q. Yes.

11 A. No.

12 Q. Did you say anything to him  
13 about it?

14 A. Not that I had received it,  
15 no.

16 Q. Okay. Did you put any  
17 expenses on it, use it in any way?

18 A. No.

19 Q. As we sit here today, you  
20 didn't -- I didn't see any kind of an  
21 envelope or anything with it. Do you  
22 know when you actually received it?

23 A. I received it after I -- my

1 Q. Charlie, I'm going to ask you  
2 a few questions. A lot of the questions  
3 that I ask you are going to be directly  
4 related to questions that you've already  
5 heard today, so I may refer to them on  
6 and off.

7 First of all, I believe we've  
8 already talked about the first meeting  
9 that you had that was an informational  
10 session, and it was held at the Holiday  
11 Inn, and Stan Trott was the presenter.  
12 Is that a correct statement?

13 A. Yes.

14 Q. Okay. During that meeting,  
15 did Mr. Trott have any literature or  
16 paraphernalia with him that had the FedEx  
17 logo on it?

18 A. No.

19 Q. All right. We saw some  
20 brochures today and yesterday that were  
21 given to you -- well, let's start with  
22 this FedEx Home Delivery bag. How did  
23 you come to receive this?

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1 truck was delivered.

2 Q. All right.

3 A. Because I put my gas expense  
4 the first time on my other credit card.

5 Q. Okay.

6 (Off-the-record discussion.)

7 MR. SPOTSWOOD: All right.

8 Thank you, sir.

9 (Said deposition was in recess  
10 at 1:55 p.m. until 2:00 p.m.,  
11 after which the following  
12 occurred:)

13 MR. NELMS: Were you finished,  
14 Bob?

15 MR. SPOTSWOOD: Yeah, on the  
16 same condition that I told you a minute  
17 ago. Don't hold me to your questions and  
18 I think I'm probably done.

19 MR. NELMS: Well, if -- off  
20 the record.

21 (Off-the-record discussion.)

22 EXAMINATION BY MR. NELMS:

1 A. That was given to me by Kent.

2 Q. All right. When?

3 A. I don't recall a date.

4 Q. Okay.

5 A. It was after my training.

6 Q. All right. And for the  
7 record, I'm holding up a black zip bag  
8 that's approximately ten by 13 inches.  
9 I'm not going to put it on the record.  
10 Now I'm holding up a laminated five by  
11 eight and a half card that has FedEx  
12 Ground on it. Do you recognize it?

13 A. Yes.

14 Q. Okay. Where did you receive  
15 this?

16 A. That came in with the packet,  
17 the brown bag -- the black bag, I'm  
18 sorry.

19 Q. Okay. In the meeting that  
20 we've talked about in January of '05, the  
21 one where Mr. Trott was the presenter,  
22 did Mr. Trott at any point in time  
23 present you -- explain to you that he was

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1 with Federal Express?

2 A. Yes.

3 Q. What position did he say he  
4 held with Federal Express?

5 A. He was a ground manager.

6 Q. Manager?

7 A. Yes.

8 Q. Okay. And did he wear any  
9 clothing that had Federal Express logo on  
10 it?

11 MR. SPOTSWOOD: I object to  
12 the form. I think, and let me explain to  
13 you what I'm concerned about, you're  
14 using the terminology Federal Express.  
15 FedEx Ground Package Systems, Inc. is a  
16 separate entity, and I don't think  
17 there's any question that what we're  
18 talking about is FedEx Ground Package  
19 Systems, Inc. of which FedEx Home  
20 Delivery is a part.

21 MR. NELMS: That's an  
22 outstanding point. I apologize.

23 Q. Let me get this right then.

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1 In the meeting with Stan Trott  
2 in January of 2005, did Mr. Trott wear  
3 any attire that included the FedEx logo?

4 A. He had a jacket on, a FedEx  
5 Ground jacket on.

6 Q. Okay. You already said he  
7 represented to you that he was the  
8 manager?

9 A. Yeah.

10 Q. All right. Did he tell you  
11 where he was the manager?

12 A. The Montgomery terminal.

13 Q. Okay. Did he tell you how  
14 long he had been working for FedEx?

15 A. Yes, he did. I don't recall  
16 the years, but it was many.

17 Q. Okay. And did he give you or  
18 did you have the opportunity to receive  
19 any literature at that meeting?

20 A. No, sir.

21 Q. Okay. Did you sign any  
22 contracts at that meeting?

23 A. No, sir.

1 Q. And I believe you've already  
2 testified that there was no form for you  
3 to fill out as an attendee of the  
4 meeting, is that correct?

5 A. That's correct.

6 Q. Okay. When you left that  
7 meeting or the seminar or however we want  
8 to characterize it that day in January of  
9 2005, were you left with the impression  
10 that you could become a contractor with  
11 FedEx?

12 MR. SPOTSWOOD: Object to the  
13 form, leading, suggestive.

14 Q. Answer, please.

15 A. Yes.

16 Q. Okay. How did you come to  
17 that belief?

18 A. By the questions that my wife  
19 and I asked him during the meeting and a  
20 one-on-one outside the meeting.

21 Q. Okay. When you say him, you  
22 mean Stan Trott?

23 A. Yes, Stan Trott.

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1 Q. Okay. And what, if anything,  
2 did he tell you that led you to come to  
3 these conclusions; specifically what did  
4 he tell you?

5 A. He specifically told me that  
6 there were -- there was actual criteria  
7 that would have to be met, that they had  
8 two, possibly three openings, and if the  
9 criteria were met, they were -- they were  
10 going to fill the on the grounds and I  
11 needed to come -- if I was interested,  
12 truly interested, come to the terminal.

13 Q. And did Mr. Trott explain to  
14 you what these criteria were?

15 A. He went -- as far as the  
16 meeting, he went into the driver training  
17 and the securing the loan on the truck.

18 Q. Okay. And I believe you've  
19 already testified for us in your  
20 deposition that you came to a conclusion  
21 that you wanted to become a contractor  
22 with FedEx, is that correct?

23 MR. SPOTSWOOD: Object to the

30 (Pages 369 to 372)

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1 form, leading, suggestive.

2 A. Yes.

3 Q. Okay. Did there come a point  
4 in time when you believed that you wanted  
5 to be a contractor with FedEx?

6 MR. SPOTSWOOD: Object to the  
7 form, leading and suggestive.

8 Q. Answer.

9 A. Yes.

10 Q. All right. How did you  
11 express that interest to FedEx?

12 MR. SPOTSWOOD: Same  
13 objection, based on the prior question.

14 A. Well, I told Mr. Trott that  
15 night that the wife and I would talk  
16 about it, and I was definitely  
17 interested, and I would call him and set  
18 up a time to come to the terminal, and I  
19 proceeded with that and went to the  
20 terminal and moved forward.

21 Q. Okay. Did he provide you with  
22 any paperwork to be signed?

23 A. At what time?

1 Q. Did you meet with Stan Trott  
2 the day you went to the terminal?

3 A. Yes, sir.

4 Q. All right. Was he wearing any  
5 clothing that had a FedEx logo on it?

6 A. FedEx jacket.

7 Q. Did his shirt have any FedEx  
8 logos on it?

9 A. I don't recall.

10 Q. Okay. And you did sign some  
11 paperwork?

12 A. Yeah.

13 Q. What did you sign?

14 A. I do not recall.

15 Q. Okay. Do you recall whether  
16 or not any of that paperwork had the name  
17 FedEx on it or had the FedEx logo on it,  
18 either one?

19 A. I'm pretty sure it did.

20 Q. Okay. And what did you do  
21 after you signed this paperwork?

22 A. I met back with him and left.

23 Q. Now, are you saying you had a

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1 Q. When you met him at the  
2 terminal?

3 A. I proceeded to do the  
4 paperwork -- the day I went to the  
5 terminal, I had Trice put me online to do  
6 the paperwork online.

7 Q. Okay.

8 MR. SPOTSWOOD: Is that  
9 Teresa?

10 A. Bob, I don't know how --

11 MR. GASTINEAU: It's Trice.

12 A. Trice.

13 MR. SPOTSWOOD: Okay.

14 Q. (BY MR. NELMS:) So, Stan  
15 Trott instructed you to come to the  
16 terminal?

17 A. If I was interested.

18 Q. And you did?

19 A. Yes.

20 Q. All right. Do you remember  
21 the date that you went to the terminal  
22 and met with Stan Trott?

23 A. No, sir, I don't.

1 meeting that day with Stan Trott or you  
2 had another meeting with Stan Trott on a  
3 subsequent day?

4 A. It was not a meeting. I had  
5 completed the paperwork and told him I  
6 was completed -- it was complete, and  
7 after that, it was like when everything  
8 was processed, I would go for a drug  
9 screen, do a drug screen.

10 Q. These are things that Stan  
11 Trott told you you would need to do?

12 A. Yes.

13 Q. Okay. And in response to the  
14 things that you were told that day by Mr.  
15 Trott, what actions did you take next in  
16 any way related to FedEx?

17 MR. SPOTSWOOD: Object to the  
18 form of the question. That is an  
19 incredibly broad question. It basically  
20 asks him to tell you everything we've  
21 been talking about for the last day and a  
22 half.

23 MR. NELMS: Actually I think

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1 the question asked him what happened  
2 next. It's serial in chronological  
3 order, what did you do next related --  
4 related to FedEx. What singular thing  
5 did you do?

6 A. Drug screen.

7 Q. (BY MR. NELMS:) All right.  
8 What prompted you to have a drug screen?

9 A. That was company policy for --  
10 it was company policy you had to have a  
11 drug screen.

12 Q. It was FedEx's policy that you  
13 have a drug screen?

14 A. Yes.

15 Q. Okay. Where did you go to get  
16 your drug screen?

17 A. I don't recall.

18 Q. Okay. How did you know to get  
19 there?

20 A. Well, they gave me the  
21 information.

22 Q. Who did?

23 A. One of the young ladies in the

1 training?

2 MR. SPOTSWOOD: Object,  
3 leading and suggestive.

4 A. They actually told me the date  
5 at FedEx.

6 Q. Who is they?

7 A. One of the young ladies in the  
8 office.

9 Q. What office?

10 A. FedEx. FedEx Ground office.

11 Q. To the best of your knowledge,  
12 is that person an employee of FedEx?

13 A. Yes.

14 Q. Did you go to the training?

15 A. Yes.

16 Q. How did you know where it was?

17 A. I was given directions.

18 Q. By whom?

19 A. The ladies in the office,  
20 employees -- FedEx Ground employees.

21 Q. Okay. And where was the  
22 training?

23 A. Birmingham.

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1 office.

2 Q. Did she work --

3 A. I can't recall if it was Trice  
4 or another one.

5 Q. Okay. To the best of your  
6 knowledge, did that person work for  
7 Federal Express?

8 A. Yes.

9 Q. FedEx, excuse me. So then you  
10 went and got your drug screen, right?

11 A. Yes.

12 Q. All right. What singular  
13 event or action did you take next in  
14 chronological order that is related to  
15 FedEx?

16 A. The best of my knowledge, it  
17 would have been securing a date for  
18 training in Birmingham.

19 Q. All right. And how did you  
20 know to do that?

21 A. Through Stan's office.

22 Q. Is it safe to say someone at  
23 FedEx told you to secure a date for

1 Q. Okay. And did there come a  
2 point in time when you arrived in  
3 Birmingham for the training?

4 A. Yes.

5 Q. Okay. Was it in a building?

6 A. Yes.

7 Q. Okay. Were there any signs or  
8 logos on this building?

9 A. It was the Drury Inn. It was  
10 a hotel.

11 Q. Okay. And did you meet in a  
12 conference room?

13 A. Yes.

14 Q. Okay. Were you given anything  
15 when you got there?

16 A. Yes, a manual to follow along.

17 Q. Okay. Is that manual here  
18 today in the exhibits that we've  
19 presented?

20 A. No, it's not.

21 Q. Okay. Do you know where it is  
22 now?

23 A. Yes, I do.

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1 Q. Where is it?  
2 A. It's at my home.  
3 Q. It is?  
4 A. Yes.  
5 Q. All right. Why haven't we  
6 gotten it?  
7 MR. SPOTSWOOD: That's a good  
8 question.  
9 A. I apologize, but it's at home.  
10 Q. Okay.  
11 A. It's just --  
12 MR. NELMS: Not only do we  
13 need it, but we need to get a copy to  
14 Bob, okay?  
15 A. Sure.  
16 MR. NELMS: All right.  
17 MR. SPOTSWOOD: Actually I'm  
18 very disturbed by this revelation. I  
19 mean, I've concluded an examination here  
20 for two days without having in front of  
21 me what I think could be a pretty  
22 important piece of paper, and, frankly, I  
23 would suggest that he get in the car and

1 REEXAMINATION BY MR. SPOTSWOOD:  
2 A. Apologize for that. It was in  
3 a bookcase at the house.  
4 Q. Let me -- before we go on  
5 here, Exhibit ZZ, tell me what this is.  
6 A. That's the manual that we  
7 used, training manual in Birmingham with  
8 Omar Newman.  
9 Q. And it's -- on the first page  
10 it says Quality P & D Learning  
11 Participant Manual, June 2003, correct?  
12 A. Correct.  
13 Q. And this is the manual that  
14 you were given when you got to  
15 Birmingham?  
16 A. That's correct.  
17 Q. And who gave it to you?  
18 A. Omar Newman.  
19 Q. And is it the manual that was  
20 used during the course of your -- I'm not  
21 sure how many days this went on, but I  
22 can see that there are at least --  
23 A. I think it was like 16 to

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1 go get it and bring it back here.  
2 MR. NELMS: We'll adjourn for  
3 an hour. Go get it.  
4 A. That's fine. It's nothing  
5 more than a manual.  
6 MR. NELMS: And if you have  
7 any other documents, please, please,  
8 please, if you can think of them, think  
9 of them while you are driving to  
10 Millbrook and think of them while you're  
11 there.  
12 A. Sure.  
13 MR. SPOTSWOOD: I'm sorry,  
14 Andy. I -- off the record here.  
(Off-the-record discussion.)  
(Said deposition was in recess  
at 2:16 p.m. until 3:14 p.m.,  
after which the following  
occurred:)  
(Whereupon, Defendant's  
Exhibit ZZ was marked for  
identification.)

1 17 days -- no. I'm sorry. Nine, eight  
2 to nine days.  
3 Q. Were days one through nine  
4 classroom -- I'm sorry, one through eight  
5 classroom training, and then I'm looking  
6 at the -- I'm looking at -- I'll tell you  
7 I'm looking at the table of contents here  
8 and it says day nine, ride with certified  
9 contractor and then driver safety program  
10 and then days ten through 14 -- I'm not  
11 sure what this means. It says 14 day  
12 quality P & D learning curriculum.  
13 MR. GASTINEAU: That means  
14 that you ride with the service manager,  
15 and they deliver packages. Sometimes the  
16 service manager would be driving and  
17 delivering, and sometimes the trainee.  
18 Q. So, is that what happened to  
19 you, what was described by Kent?  
20 A. I assume so. I -- when I was  
21 in Birmingham, Omar -- it was classroom  
22 training also. It was split up in  
23 driving because we had four individuals.

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1 So, morningtime classroom; afternoon time  
2 would be in the van driving.

3 Q. Do you remember who was with  
4 you in the training program by name?

5 A. No, sir, I don't remember  
6 their names.

7 Q. Do you remember where they  
8 were from?

9 A. Well, two of the guys worked  
10 out of the Birmingham term -- terminal,  
11 and the young lady was out of Montgomery.

12 MR. SPOTSWOOD: Okay. All  
13 right.

15 EXAMINATION BY MR. NELMS - CONTINUING:

16 Q. I believe when we left off you  
17 were just describing your training in  
18 Birmingham, and you just answered for Bob  
19 some of my questions. After your  
20 training in Birmingham -- excuse me. How  
21 many days was that training in  
22 Birmingham?

23 A. Eight to nine days.

1 when you arrived at the terminal?

2 A. I report -- I reported to -- I  
3 believe it was to Stan, and that was when  
4 he introduced me to Kent.

5 Q. All right. And did you  
6 understand Kent to be an employee of  
7 FedEx?

8 A. Yes.

9 Q. Did you have any knowledge to  
10 what his job position was?

11 A. I had been told he would be  
12 the Home Delivery manager.

13 Q. At any time were you required  
14 to take a physical examination?

15 A. Yes.

16 Q. Who paid for the physical  
17 examination?

18 A. FedEx.

19 Q. Okay. Where was the physical  
20 examination taken?

21 A. In Montgomery.

22 Q. Was it done by a doctor?

23 A. Yes.

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1 Q. Okay. Did you have to pay  
2 Federal Express -- excuse me, FedEx, any  
3 money to take that class or take that  
4 training?

5 A. No.

6 Q. What regarding FedEx did you  
7 do when you completed your training with  
8 FedEx?

9 A. The completion of this  
10 training (indicating)?

11 Q. The training that we described  
12 that you took in Birmingham.

13 A. After our training was  
14 complete, we was told by Joe McConnell to  
15 report on the following week to the  
16 terminal in Montgomery.

17 Q. Did you know Joe McConnell to  
18 be an employee of FedEx?

19 A. Yes.

20 Q. Okay. And did you report to  
21 the Montgomery terminal?

22 A. Yes.

23 Q. Okay. Who did you report to

1 Q. Do you remember his or her  
2 name?

3 A. No, it was a gentleman that  
4 done the physical, DOT physical.

5 Q. All right. Do you remember  
6 where the physical was?

7 A. Family Care Center. I think  
8 it was Family Care. Family something off  
9 of Vaughn Road. Vaughn and Bell.

10 Q. Okay. What, if anything, did  
11 you do once you reported to the FedEx  
12 terminal in Montgomery, as instructed?

13 A. Well, I was assigned to a  
14 gentleman by the name of Ron, and I  
15 learned that by reading transcripts to  
16 ride with him for a day.

17 Q. Who instructed you to do that?

18 A. It was Joe. Now, back up.

19 The day I reported to the terminal in  
20 Montgomery, it was not Stan. It was Joe.  
21 I mean, this has been a long time. It  
22 was Joe that I reported to, and he  
23 introduced me to Kent.

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1       Q. All right. We've seen an  
2 exhibit that was admitted in your  
3 deposition during the course of your  
4 deposition testimony today that was an  
5 identification badge. Do you recall  
6 that?

7       A. Yes.

8       Q. Okay. How was it you came to  
9 have an identification badge?

10      A. It was assigned to me from the  
11 term -- terminal, in Montgomery.

12      Q. By FedEx?

13      A. By FedEx.

14      Q. You've made mention of the  
15 fact that you have some articles of  
16 clothing --

17      A. Yes.

18      Q. -- that you called uniforms  
19 that you were to wear as a -- do you have  
20 these uniforms today?

21      A. Yes, I do.

22      Q. Okay. Do they have FedEx  
23 logos on them?

1       document, page two of the composite  
2 Exhibit H?

3       A. Yes.

4       Q. Okay. Does it identify who  
5 the seller of the truck is?

6       A. Yeah. Yes, it does.

7       Q. Can you tell me for the record  
8 who the seller of the truck is?

9       A. It says FedEx Home H --

10      Q. All right.

11      A. -- slash Montgomery, Alabama.

12      Q. Okay.

13      MR. SPOTSWOOD: I object to --  
14 I think the record should be clear. It  
15 does say FedEx H slash Montgomery,  
16 Alabama.

17      (Off-the-record discussion.)

18      Q. (BY MR. NELMS:) I'm going to  
19 show you what's already been marked as  
20 Defendant's Exhibit QQ.

21      A. Yes.

22      Q. And I believe you told us that  
23 is a -- basically a diary that you've

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1       A. They have FedEx Home Delivery  
2 on them.

3       Q. Okay. Who, if you know, paid

4 for those uniforms?

5       A. FedEx.

6       Q. Okay. How did you come to  
7 have those uniforms?

8       A. They -- they were ordered from  
9 the terminal.

10      Q. Who ordered them?

11      A. I believe it was Kent.

12      Q. Okay. Do you recall Exhibit  
13 H --

14      A. Yes.

15      Q. -- that Mr. Spotswood showed  
16 you?

17      A. Yeah.

18      Q. Okay. And are those documents  
19 that came from Stearns Bank regarding the  
20 financing of your FedEx truck?

21      A. Correct.

22      Q. Okay. I ask you to turn to  
23 page two. Can you identify this

1       written regarding the events that  
2 occurred related to FedEx, is that  
3 correct?

4       MR. SPOTSWOOD: Object to  
5 leading.

6       A. That's correct.

7       Q. Tell me what QQ is, please,  
8 for the record.

9       A. It's a time line or diary of  
10 events.

11      Q. And, again, if you could tell  
12 us was this diary written in one day, or  
13 did you write it over a period of time?

14      A. It was written over probably a  
15 two-day period.

16      Q. Okay. Is it contemporaneous,  
17 that is to say, did you write the events  
18 down as they occurred?

19      A. I done my best to do that,  
20 yes, I did.

21      MR. SPOTSWOOD: I -- I'm not  
22 sure he understood your question.

23      Q. I'm going to clarify that.

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1 A. Okay.

2 Q. What I'm asking is, as an  
3 event would occur, would you write that  
4 event down in this diary marked as QQ,  
5 the very same day that the event  
6 occurred?

7 A. Oh, no.

8 Q. Okay.

9 A. No.

10 Q. And you wrote the diary over  
11 maybe a two-day period of time, right?

12 A. Yes, two- to three-day period,  
13 I would say.

14 Q. Okay. So, you used your  
15 memory --

16 A. Yes.

17 Q. -- of the -- let me finish the  
18 question. So, you used your memory of  
19 the events, and you wrote those events as  
20 you remembered them down in this diary  
21 marked as QQ?

22 A. Right.

23 MR. SPOTSWOOD: Object to

1 A. Correct.

2 Q. Okay. And if you will, please  
3 tell us again when did you record this  
4 audiotape that the transcript is made  
5 from?

6 A. It would have been the latter  
7 part of May of 2005 or the first of June.

8 Q. From your experience related  
9 to your personal memory of any event,  
10 does your memory get weaker over a period  
11 of time?

12 MR. SPOTSWOOD: Object to  
13 leading, vague. I'd also note for the  
14 record that on page 53 of Exhibit N he  
15 says it's the 19th. He's already  
16 testified it was done the 19th of May.

17 Q. He's going to do this the  
18 whole time, just let him speak, and when  
19 he finishes, answer my question.

20 A. Would you ask me the question  
21 again, please, sir?

22 Q. Does your memory fade over a  
23 period of time?

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1 leading. You've got to give me a chance  
2 to get in there, so just take your time.

3 MR. NELMS: Yeah.

4 Q. (BY MR. NELMS:) The events  
5 that give rise to the lawsuit that brings  
6 us here today, Charlie, is your  
7 recollection of those events greater  
8 today than it was when you wrote the  
9 diary marked as QQ?

10 MR. SPOTSWOOD: Object to  
11 leading, suggestive, vague.

12 A. No.

13 Q. Okay. And I ask you to look  
14 at what's been marked as Exhibit N.

15 A. Yes.

16 Q. Okay. And I believe you've  
17 already testified that that's a  
18 transcript of a tape recording that you  
19 made of the events related to FedEx, is  
20 that correct?

21 A. That's correct.

22 Q. Okay. And today is March the  
23 16th, 2006, is that correct?

1 MR. SPOTSWOOD: Object to  
2 leading.

3 A. Some things; some things no.

4 Q. Okay. Would you say that your  
5 recollection of the events that bring us  
6 here today and the transcript that you  
7 made that's marked here as N is greater  
8 today or less today in detail than it was  
9 when you made this transcript?

10 MR. SPOTSWOOD: I object to  
11 the form.

12 A. As far as recall, some things  
13 are very fresh. There are some things  
14 that, after looking at this, it brings it  
15 back to my memory.

16 Q. Okay. That's not my question.

17 A. Okay.

18 Q. Is your memory of the events  
19 greater today, or was it greater on the  
20 day that you made the tape?

21 A. It was greater on the day that  
22 I made the --

23 MR. SPOTSWOOD: I'm sorry,

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1 because of the quick answer, I meant to  
2 object to the form of that.

3 MR. NELMS: Too late.

4 MR. SPOTSWOOD: Too late.

5 MR. NELMS: All right.

6 MR. SPOTSWOOD: Please note  
7 for the record that Mr. Nelms just yelled  
8 at me and is being abusive to the  
9 opponent.

10 MR. NELMS: And I'm  
11 threatening to throw things at him, too.

12 (Off-the-record discussion.)

13 Q. (BY MR. NELMS:) I ask you to,  
14 again, look at what's been marked as  
15 Defendant's Deposition Exhibit WW, and --

16 A. Yes.

17 Q. -- ask you if you recognize  
18 that document?

19 A. Yes.

20 Q. Okay. And what is it?

21 A. It's from Stearns Bank  
22 Equipment Finance Division.

23 Q. I ask you to turn to page two

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1 of the exhibit, and does it indicate --  
2 does it -- first of all, what is page  
3 two?

4 A. Conditional sales contract.

5 Q. Okay. Does it indicate who  
6 the seller of the ve -- of the truck is?

7 A. Yes.

8 Q. Who?

9 A. FedEx H slash Montgomery,  
10 Alabama.

11 Q. Okay. I'll ask you to look at  
12 what is page nine of this composite  
13 exhibit and describe for us what this is.

14 A. It's a bill of sale.

15 Q. Does it indicate who the  
16 seller is?

17 A. Yes, it does.

18 Q. Who does it say is the seller?

19 A. FedEx Ground.

20 Q. Okay. Does it give an  
21 address?

22 A. Yes.

23 Q. What is the address?

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1 A. 1000 FedEx Drive, Moon  
2 Township, Pennsylvania.

3 Q. Okay. I note that at the top  
4 of page nine of this Exhibit WW that  
5 there is some -- some lettering that  
6 looks to me like it came from a fax  
7 machine. Do you see that?

8 A. Yes.

9 Q. Okay. Does it indicate from  
10 whom this document was faxed?

11 A. Yes, it does.

12 Q. Okay. And is there a  
13 telephone number there, what looks like a  
14 telephone number there?

15 A. Yes.

16 Q. Okay. And is the area code  
17 412?

18 A. Correct.

19 Q. All right. Do you have any  
20 knowledge of what area code -- what area  
21 412 belongs to?

22 A. No.

23 Q. I ask you to look at page ten

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1 of the Exhibit WW, please, and tell me  
2 what that is.

3 A. It's a certificate of origin  
4 for a vehicle.

5 Q. Okay. And I ask you to turn  
6 the page to 11, please. And describe for  
7 us what this is, if you can.

8 A. It is the origin of the  
9 vehicle.

10 Q. The back side of the --

11 A. Well, the back side, I guess.

12 Q. Okay. Does it indicate who  
13 the seller is on this title?

14 A. Yes.

15 Q. Tell us, please.

16 A. FedEx Ground Package Systems,  
17 Incorporated.

18 Q. Does it give an address?

19 A. Yeah.

20 Q. Can you tell us what the  
21 address is?

22 A. 1000 FedEx Drive, Moon  
23 Township, PA.

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1 MR. NELMS: That's it. If  
2 you've got anything else, go ahead.

3 MR. SPOTSWOOD: I do not,  
4 subject to what we discussed previously  
5 regarding any additional documents that  
6 come in from Stearns regarding the sale  
7 of the vehicle.

9 REEXAMINATION BY MR. SPOTSWOOD:

10 Q. I do want to ask just one last  
11 question, and that is, do you have any  
12 other documents that in any way relate to  
13 the matters that we've been talking about  
14 for the last day and a half?

15 MR. NELMS: Objection, vague.

16 A. No, sir, I have no documents.

17 All I have is -- all I have is the  
18 uniforms.

19 Q. All right. And you reviewed,  
20 I assume, the request for production of  
21 documents in the case?

22 MR. NELMS: Objection,  
23 leading.

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1 MR. SPOTSWOOD: I'm allowed to  
2 lead. You're not.

3 MR. NELMS: Actually what are  
4 you calling him, a hostile witness?

5 MR. SPOTSWOOD: I think I am  
6 certainly allowed to lead the plaintiff,  
7 and, yes, as to me, he's quite hostile.

8 MR. NELMS: Okay.

9 Q. As a matter of law. I don't  
10 mean to suggest you've been hostile, sir.  
11 You're just on the other side of the V in  
12 a piece of litigation.

13 A. What was the question again,  
14 Bob? I'm sorry.

15 Q. Well, let me just be specific  
16 with you. We have a request for  
17 production of documents that I previously  
18 showed you.

19 A. Yes. Oh, yes.

20 Q. And it's Exhibit J. And it  
21 has a number of requests for information,  
22 and I just want to be certain that you  
23 don't have anything else at home or on a

1 bookshelf that's responsive to that?

2 A. I have nothing. I have  
3 absolutely nothing other than uniforms.

4 MR. SPOTSWOOD: I would say  
5 that I think that it's fairly within the  
6 issues embraced here with respect to  
7 damages and the request for any documents  
8 that we see the lease/purchase documents  
9 that we talked about in connection with  
10 the Chilton County house since he's  
11 claiming damages in connection with that.

12 REEXAMINATION BY MR. NELMS:

13 Q. Have you got any documents  
14 relating to the lease of the house up in  
15 Chilton County?

16 A. Yeah. They were drawn up.

17 Q. Did you use a lawyer for that?

18 A. Yes, I did. McAnnally in  
19 Millbrook.

20 Q. Gary?

21 A. Gary.

22 Q. Do you have like a closing

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1 package or something?

2 A. Yeah. In his envelope, the  
3 whole nine yards.

4 Q. Okay. Do you have any strong  
5 objection to him seeing that? I mean,  
6 you've told him all the terms already.

7 A. No, I have no problem with  
8 that. It's just --

9 MR. SPOTSWOOD: I'd just like  
10 you to get those documents together and  
11 send them along, and then whenever the  
12 Stearn documents come in, send those  
13 along.

14 A. May I ask a question?

15 MR. SPOTSWOOD: Yes, sir.

16 A. What -- what is the purpose of  
17 that? I mean --

18 MR. NELMS: Well, he said just  
19 a while ago, part of your claim is you  
20 had to sell your house because you  
21 couldn't afford to make the payments.

22 A. Right. Well, I was talking  
23 about the full value of the house. I'm

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1 just -- yeah, like I said, the house was  
2 appraised for 80 something thousand, and,  
3 you know, I'm -- I'm -- I ain't gained  
4 anything, but I have no problem with the  
5 paperwork. I'll be --  
6

7 REEXAMINATION BY MR. SPOTSWOOD:

8 Q. Right. And as I understood  
9 your testimony, basically what you're  
10 saying is that you think that you took  
11 out a mortgage of roughly \$60,000, so you  
12 got \$60,000 in your pocket on the house?

13 A. Right.

14 Q. And because of the financial  
15 situation, you couldn't keep the payments  
16 up, so you may wind up in basically, if I  
17 understand what you testified to, you  
18 might wind up selling the house to these  
19 people because of the circumstances you  
20 were in for \$20,000 less than you  
21 consider the value of the house to be  
22 because of the appraisal?

23 A. Correct.

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1 MR. NELMS: And you said that  
2 the people that bought it were cousins?

3 A. Yes, she is a cousin. She is  
4 a -- they are the only ones I had make me  
5 an offer on the house.

6 Q. Did you put an ad in the  
7 newspaper for the house?

8 A. I did not put an ad in the  
9 newspaper.

10 Q. Did you --

11 MR. NELMS: Did you have a  
12 realtor?

13 A. No. I do not have a realtor.

14 Q. In view of that, how do you  
15 know you couldn't sell your house for  
16 \$80,000 to somebody?

17 MR. NELMS: Is that question  
18 on the record?

19 MR. SPOTSWOOD: Yes.

20 MR. NELMS: Object. Go ahead.

21 A. I had it on the market for a  
22 while.

23 Q. During what period?

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1 A. That was before my son --  
2 well, my son actually was living in it,  
3 and it was before he moved out, and I  
4 had -- I -- the location -- it's in the  
5 country. I had no inquirers on the house  
6 whatsoever.

7 Q. Do you remember what year you  
8 would have advertised it? Would that  
9 have been '04? You told me your dad died  
10 in '03.

11 A. Yeah. I do not recall if it  
12 was '04 or '05.

13 MR. NELMS: Are you done?

14 Q. (BY MR. SPOTSWOOD:) Well, I  
15 think -- I didn't hear the name of this  
16 borrower or purchaser. I just want to  
17 make -- remember we were asking about  
18 relatives in the Middle District of  
19 Alabama. Is Chilton County in the Middle  
20 District?

21 MR. NELMS: I think so.

22 Q. Are there any other relatives  
23 that you haven't mentioned to me that

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1 reside in the Middle District, those  
2 counties that we talked about earlier  
3 heading all the way down?

4 A. Just in Chilton County.

5 Q. Okay. Do you have some other  
6 relatives in Chilton County?

7 A. I have some cousins there.

8 Q. Can you tell us who they are?

9 A. I know there's --

10 MR. NELMS: Keep going.

11 A. Lona Mitchell.

12 Q. How old is Lona?

13 A. She's in her forties. I would  
14 assume. I don't really know. I'm  
15 assuming she's in her forties.

16 Q. All right. Anyone else?

17 A. And I have some cousins on my  
18 mother's side that I have not seen for  
19 years. I have no contact with them.

20 Q. Okay. Names, last names?

21 A. Their last name is Brasher,  
22 and, like I say, it's been years.

23 MR. NELMS: It is in the

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1 Middle.

2 Q. All right. Anyone else you  
3 can think of?

4 A. That's it.

5 MR. SPOTSWOOD: All right,  
6 sir. Thank you very much.

7

8 REEXAMINATION BY MR. NELMS:

9 Q. Why did you not advertise that  
10 home for sale?

11 A. Because when my son moved out,  
12 I was already -- I already had to pick up  
13 the payments on the house, and it was a  
14 struggle then, and Lona and Keith came  
15 along -- they knew my situation. They  
16 knew my situation, and they said we'll --  
17 they made me an offer. They said, hey,  
18 what -- you know, we'll -- didn't make me  
19 an offer. What they said we'll -- if you  
20 want to get rid of the house, we will do  
21 this, if you can do this.

22 Q. And you've already testified  
23 the --

1 but if there is additional testimony  
2 that's required based upon the Stearns  
3 documents that have not come in that, you  
4 know, we both reserve the right to deal  
5 with those issues.

6 MR. NELMS: That's our  
7 agreement.

8 MR. SPOTSWOOD: Okay.  
9 MR. NELMS: We're concluded.  
10 MR. SPOTSWOOD: Yes, sir.  
(Said deposition was in recess  
11 at 3:44 p.m. until 3:54 p.m.,  
12 after which the following  
13 occurred:  
14 (Whereupon, Defendant's  
15 Exhibit AAA was marked for  
16 identification.)

17 MR. NELMS: Present it to him  
18 and let him identify it, and that will be  
19 it.

20 Q. (BY MR. SPOTSWOOD:) Mr.  
21 Thornton, Exhibit AAA, is that a copy of  
22 the bill of sale that you signed which

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1 A. And I just --

2 Q. You've already testified what  
3 they did was they took over the payments?

4 A. Yes, they took over the  
5 payments. I knew that I could not --  
6 needed to get rid of the home as soon as  
7 possible. I could not let it go two or  
8 three months down the road sitting on the  
9 market making payments on that home.

10 Q. Why didn't you contract with a  
11 realtor for the sale of the home?

12 A. Because it would take a period  
13 of time. It would not sell Johnny on the  
14 spot. It didn't before when Charlie was  
15 in it, and I felt like it would not sell  
16 because of the location.

17 MR. NELMS: Thank you. On the  
18 record, do you want to state that we've  
19 agreed to hold open?

20 MR. SPOTSWOOD: Well, I think  
21 we've agreed that, you know, we can go  
22 ahead and use the deposition as we see  
23 fit in view of the upcoming deadlines,

1 sets forth the -- and reflects the  
2 transfer of ownership of your van to the  
3 buyer known, listed here as Daniel Wayne  
4 Goode, G-O-O-D-E?

5 A. Yes, sir.

6 Q. And you signed that document?

7 A. Yes, sir.

8 Q. And it's dated May the 25th of  
9 2005, is that correct?

10 A. That's correct.

11 Q. And that's the date that you  
12 signed it?

13 A. Yes, sir.

14 Q. And the purchase price as  
15 reflected on this bill of sale is  
16 \$35,763.30, correct?

17 A. Correct.

18 Q. And that is, in fact, what you  
19 transferred the ownership interest for  
20 was that amount of money?

21 A. Correct.

22 MR. SPOTSWOOD: Thank you.

23

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1 FURTHER THE DEPONENT SAITH NOT  
2

3 (Said deposition was concluded  
4 at 3:55 p.m. on the 16th day  
5 of March, 2006.)  
6  
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1 C E R T I F I C A T E  
2  
3

4 STATE OF ALABAMA)  
5 JEFFERSON COUNTY)  
6

7 I hereby certify that the  
8 above and foregoing deposition was taken  
9 down by me in stenotypy, and the  
10 questions and answers thereto were  
11 reduced to typewriting under my  
12 supervision, and that the foregoing  
13 represents a true and correct transcript  
14 of the deposition given by said witness  
15 upon said hearing.

16 I further certify that I am  
17 neither of counsel nor of kin to the  
18 parties to the action, nor am I in  
19 anywise interested in the result of said  
20 cause.  
21  
22

23 C O M M I S S I O N E R - N O T A R Y P U B L I C